

RESOLUTION NO. 5703

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

George K. Koos and Cory H. Koos

Purpose

Noise Easement for the operation and maintenance of water intake and pumping facilities

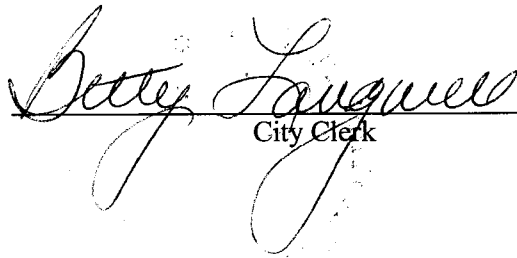
NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept this easement.

DATED AND EFFECTIVE THIS 12th DAY OF November 2008.



Mayor

ATTEST:



City Clerk

Grantor:
George and Cory Koos
33953 Langmack Rd.
Lebanon, OR 97355

Grantee:
City of Albany
333 Broadalbin St.
P.O. Box 490
Albany, OR 97321

✓ **After Recording, Return To:**
Matthew L. Jarvis
Attorney at Law
PO Box 40
Albany, OR 97321

LINN COUNTY, OREGON **2008-13156**
E-EAS
Clt#1 Str#1 COUNTER 06/30/2008 03:55:25 PM
\$15.00 \$11.00 \$10.00 **\$36.00**



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



NOISE EASEMENT

RECITALS:

WHEREAS, George K. and Cory H. Koos (Grantors) have purchased that certain real property in Linn County, Oregon, particularly described in Exhibit "A," attached hereto and by this reference incorporated herein (the "Property") from the City of Albany (Grantee); and

WHEREAS, as part of the consideration for the purchase of the Property, Grantors agreed to grant a perpetual noise easement for the benefit of Grantee's property particularly described in Exhibit "B," attached hereto and by this reference incorporated herein (the "City Property").

AGREEMENT:

NOW THEREFORE, in partial consideration for Grantors' purchase of the Property, Grantors grant to Grantee a non-exclusive, perpetual easement over the Property as follows:

1. The easement granted herein shall be for the operation and maintenance of a water intake and pumping facility located on the City Property, operated by Grantee, its successors, and assignees, and their licensees and permittees.

3. It is understood by the parties that the operation of a water intake and pumping facility ordinarily and necessarily produces noise and other conditions that may conflict with Grantors' use of the Property for residential or other purposes. Grantors hereby waive all common law rights to object to normal and necessary maintenance activities conducted by Grantee on the Protected Property for purposes of operating the water intake and pumping facility between the hours of 6:00 a.m. and 10:00 p.m. Grantors further waive their rights to object to emergency activities that take place at anytime that are for the purposes of unforeseen repairs that are necessary to get the water intake and pumping facility back into operation.

4. This easement does not apply to expanded uses of the Protected Property for purposes other than water intake and pumping.

5. This easement shall run with the land and shall be binding upon Grantors' heirs, successors and assigns and is intended for the benefit of the Grantee and its successors and assigns.

6. In the event suit or action is instituted by either party to enforce any of the terms or conditions of this easement, the prevailing party shall be entitled to recover their reasonable attorney fees and costs in such suit, action or appeal. Costs shall include costs as allowed by law and such other costs as are reasonably required, including, but not limited to, the cost of taking and transcribing depositions and procuring expert testimony.

First American Title 12-04947

7. This easement may be recorded in the deed records of Linn County, Oregon.

IN WITNESS WHEREOF the parties have executed this Easement as of the 26th day of June 2008.

GRANTOR:

[Signature]
George K. Koos

[Signature]
Cory H. Koos

GRANTEE:

CITY OF ALBANY

Wes Hare
By: _____
Its: _____

STATE OF OREGON)
) ss.
County of Linn)

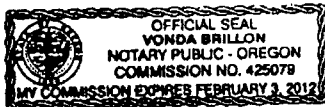
On this 26th day of June, 2008, personally appeared before me the above-named George K. Koos and Cory H. Koos, husband and wife, and acknowledged the foregoing to be their voluntary act and deed.



Cindy L Hurst
NOTARY PUBLIC FOR OREGON
My Commission Expires: 6-6-12

STATE OF OREGON)
) ss.
County of Linn)

On this 25th day of June, 2008, personally appeared before me Wes Hare as City manager of the City of Albany, and acknowledged the foregoing to be his/her voluntary act and deed.



Yonda Brillon
NOTARY PUBLIC FOR OREGON
My Commission Expires: 2/3/12

EXHIBIT A

LEGAL DESCRIPTION:

PARCEL 2, PARTITION PLAT NO. 2005-54, RECORD OF PARTITION PLATS, COUNTY OF LINN,
STATE OF OREGON.

EXHIBIT B

Legal Description:

PARCEL 1, PARTITION PLAT NO. 2005-54, RECORD OF PARTITION PLATS,
COUNTY OF LINN, STATE OF OREGON.

Resolution No. 5703

Recorded Document Recorder File No. 5132