

8/9
After recording return to:

CITY RECORDER (Nancy Ide) Kelly Burgoyne
PO BOX 3040
Oregon City, OR 97045

Tax Map: 2-2E31AD, Tax Lots: 2600
Property Address: 804 9th Street
Type: Sanitary Sewer Lateral in ROW
City File No.: PW10-007

Clackamas County Official Records
Sherry Hall, County Clerk

2010-029941



01403069201000299410080081

\$82.00

05/18/2010 12:58:53 PM

D-MA Cnt=1 Stn=9 DIANNAW
\$40.00 \$16.00 \$16.00 \$10.00

MAINTENANCE COVENANT

THIS MAINTENANCE COVENANT ("AGREEMENT") is made this 4th day of MAY, 2010, between Clary Bounds and Katherine Bounds, ("OWNER"), and the CITY OF OREGON CITY, a municipal corporation of the State of Oregon formed pursuant to ORS Chapter 457 (the "CITY").

RECITALS

A. OWNER is the owner of certain real property located in the City of Oregon City, Clackamas County, Oregon, that is described as 804 9th Street and also known as Tax Lot 2600 of Tax Map No. 2-2E-31AD (the "PROPERTY"), *being the PROPERTY described per Deed Document No. 2000-032419 (SEE EXHIBIT "A" (LEGAL DESCRIPTION OF "PROPERTY"))*.

B. The OWNER has requested a CITY Public Works (PW) Right-of-Way Permit, permit No. PW10-0007 ("PERMIT") to install a replacement sanitary sewer service lateral within the right-of-way of 9th Street ("ROW"), along the frontages of 810 and 812 Jefferson Street, for the purpose of disconnecting the PROPERTY from a common private sanitary sewer system shared with 812 Jefferson Street (hereinafter called "LATERAL") and this LATERAL is to be built per CITY requirements and inspections as described per this PERMIT.

C. This AGREEMENT is a condition of the PERMIT (PW10-0007) to allow this LATERAL (a private sanitary sewer lateral) within the ROW.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the CITY and OWNER agree as follows:

1. **Covenant to Maintain and Repair.** OWNER shall, at his/her/their sole expense, they/themselves or through qualified independent contractors, at all times maintain the LATERAL in good working order, condition and restore/repair the "curb/street section, planter, sidewalk and driveway areas fronting 804 9th Street, 810 Jefferson Street and 812 Jefferson Street" ("CONSTRUCTION AREA") in compliance with all applicable state and local rules, regulations, and guidelines (including those adopted from time to time by PW or City Design Standards). OWNER shall obtain proper CITY permitting for any work on this LATERAL and/or CONSTRUCTION AREA with respect to the matters described in this AGREEMENT.

2. **Failure to Perform Covenant.** If the CITY determines that OWNER is not in compliance with the covenant described in Section 1, except in the case of emergency, the CITY or its designee shall give the OWNER written notice to perform maintenance, repair and or replacement work specified in the notice. If such work is not performed to the CITY's satisfaction within seven (7) days after the date of such notice, OWNER hereby grants to the CITY, PW, their employees, independent contractors and designees the right to enter the PROPERTY to perform any and all work required bringing this LATERAL into compliance with Section 1.

If the CITY determines that OWNER is not in compliance with the covenant in Section 1 and determines that there exists or will likely exist an emergency resulting from this non-

compliance, OWNER hereby grants to the CITY, PW, their employees, independent contractors and designees the right to perform any and all work required to bring this LATERAL into compliance with Section 1, and in such case the CITY shall use reasonable efforts to notify the OWNER prior to start of work (maintenance/repairs/replacement) of this LATERAL. Notwithstanding the above, the work performed may consist only of cleaning, repairing, and/or replacing this LATERAL to its original condition and standards.

OWNER hereby grants the CITY, PW, their employees, independent contractors and designees a nonexclusive easement for ingress and egress over, across and under the PROPERTY for the purposes described above in this Section 2 and from time to time at the City's sole discretion to inspect, sample, and monitor this LATERAL and discharges there from.

OWNER, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS AGREES THAT NONE OF THE CITY, PW, THEIR EMPLOYEES, INDEPENDENT CONTRACTORS AND/OR DESIGNEES SHALL HAVE ANY OBLIGATION TO EXERCISE THEIR RIGHTS UNDER THIS SECTION 2 OR TO PERFORM ANY MAINTENANCE, REPAIR AND OR REPLACEMENT OF THE LATERAL, AND THAT NONE OF THEM SHALL HAVE ANY LIABILITY TO OWNER OR SUCCESSORS OR ASSIGNS IN CONNECTION WITH THE EXERCISE OR NONEXERCISE OF SUCH RIGHTS, THE MAINTENANCE, REPAIR AND OR REPLACEMENT OF THE LATERAL, OR THE FAILURE TO PERFORM THE SAME.

3. **Reimbursement.** If the CITY exercises its right to maintain, repair and or replace this LATERAL or enter the PROPERTY (to include inspection and monitoring), pursuant to Section 2, OWNER shall reimburse the CITY for all of its costs and expenses incurred in connection therewith within thirty (30) days after receipt of an invoice. If OWNER fails to pay the invoiced amount within such period, such amount shall thereafter accrue interest at a per annum rate equal to the prime rate of US Bank (or its successor) plus five percent (5%). Such amount, together with interest, shall be a lien on the PROPERTY which may be foreclosed in accordance with ORS Chapter 88. If the PROPERTY is owned by more than one person then each such owner shall be jointly and severally liable for payment of the amounts provided for in this Section 3.

4. **Indemnification.** OWNER agrees to indemnify, defend (with legal counsel reasonably acceptable to the CITY), and hold harmless the CITY, PW, their employees, independent contractors and designees harmless from and against any liability, losses, costs, expenses (including reasonable attorney fees), claims or suits arising from OWNER's failure to perform its obligations under this AGREEMENT or the exercise of the CITY, PW, or their employees, independent contractors or designees of their rights under Section 2.

5. **Run with the Land.** The parties' rights and obligations contained herein shall run with the land and inure to the benefit of, and shall be binding upon, the CITY and OWNER and their respective successors and assigns.

6. **Attorney Fees.** If legal action is commenced in connection with this AGREEMENT, the prevailing party in such action shall be entitled to recover its reasonable attorney fees and costs incurred in the trial court and in the appeal there from. The term "action" shall be deemed to include action commenced in the bankruptcy courts of the United States and any other court of general or limited jurisdiction.

7. **Assignment.** The obligations of OWNER under this AGREEMENT may not be assigned without prior written approval by the CITY except in connection with the sale and or transfer of the property owned by such person (in which case the transferee will be deemed to assume such obligations).

8. **Authority.** If OWNER is an entity, the individual executing this AGREEMENT on behalf of OWNER represents and warrants to the CITY that he/she/they has/have the full power

and authority to do so and that OWNER has full right and authority to enter into this AGREEMENT and perform its obligations under this AGREEMENT.

IN WITNESS WHEREOF, OWNER and the CITY have executed this instrument on the date first written above.

OWNER:

Clay D. Bounds
signature

Clay D. Bounds
printed name

Katherine R. Bounds
signature

Katherine R. Bounds
printed name

STATE OF OREGON)
County of Clackamas) ss.

THE CITY:

CITY OF OREGON CITY

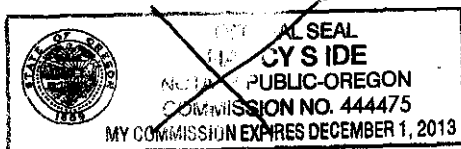
David Frasher
signature

David Frasher
printed name

City Manager
Title

Nancy J. Kraushaar
PRINTED NAME: NANCY J.T. KRAUSHAAR
TITLE: CITY ENGINEER / PUBLIC WORKS DIRECTOR

This instrument was acknowledged before me on May 13, 2010, by David Frasher as city manager of the City of Oregon City.

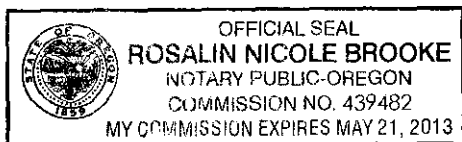


Nancy S. Ide
Notary Public for Oregon
My Commission Expires 12-01-2013



STATE OF OREGON)
Washington) ss.
County of ~~Clackamas~~

This instrument was acknowledged before me on May 4, 2010 by Clay D. Bounds and Katherine R. Bounds.



R. Brooke
Notary Public for Oregon
My Commission Expires 5.21.13



LEGAL DESCRIPTION

The Westerly one-half of Lot 8, divided by a line parallel to Jefferson Street and the Northerly 10 feet of the Westerly one-half of Lot 7, divided by lines parallel to 9th Street and Jefferson respectively, all in Block 113, OREGON CITY, in the City of Oregon City, County of Clackamas and State of Oregon.

EXHIBIT "A"



OREGON CITY

PUBLIC WORKS

625 Center Street | Oregon City, OR 97045
Ph: (503) 657-0891 | Fax: (503) 657-7892
Inspection Line: (503) 496-1548 | Cell: (503) 793-1630

PUBLIC WORKS PERMIT

THIS PERMIT EXPIRES: 10/24/2010

Permit No: PW-10-0007

Status: issued

Permission is hereby requested to encroach into public right of way or public easement(s) to perform work as set forth below. It is understood that this application is limited to the work described herein and that all work is to be done in compliance with the provisions shown on the back of this application and with all other applicable rules, regulations and standards of the City; and that the permittee assumes full responsibility for said compliance, for acceptability of the work, and for repair or replacement thereof if defective, and for repair or replacement of any existing improvement damaged by this work.

Job Address: 804 9TH ST
Parcel No. OREGON CITY OR 97045
2-2E-31AD-02600
Owner's Name: CLARY D & KATHERINE BOUNDS
Submitted by: EXCAVAT SPECIALISTS PRODRAIN
(503) 533-0430
Owner's Address: 2195 HILLCREST DR
WEST LINN OR 97068

Permit Description:

Disconnect from common pvt san sewer with 812 Jefferson: Install replacement lateral in Jefferson St ROW (planter) as directed by Chuck Carter, city PW inspector - call chuck at 503-793-1630 for requirements/standards/inspections. See attached site plan (Hold Harmless/maintenance Agreement & plan as-built required).

Fees:

Description	Fee Amount	Description	Fee Amount
4316 Right of Way Permit fee	133.00	5320 Sewer Inspection fee	133.00
4338 Record documents at Cnty	241.00		
		Total fees:	<u>\$ 507.00</u>

Staff Comments: 48 hr min notice to neighboring / EFFECT properties
Required. AS-BUILT Req'd
HOLD Harmless Required prior to PERMIT FINAL

24 HRS. ADVANCE NOTICE MUST BE GIVEN FOR INSPECTION

- Exclusive of Saturdays, Sundays and holidays. Forms and subgrade must be inspected and approved before ordering Portland Cement Concrete or Asphaltic Concrete. Failure to obtain approval before proceeding with work may be cause for rejection. Any work to be done on a Saturday or holiday **MUST** be approved by the City at least 24 hours in advance.

CONSTRUCTION WATER SHALL NOT BE TAKEN FROM A FIRE HYDRANT UNTIL A FIRE HYDRANT PERMIT HAS BEEN OBTAINED FROM PUBLIC WORKS (503) 657-8241.

CUSTOMER NO.: 012618

ISSUED BY: [Signature]

(CITY ENGINEER OR AUTHORIZED REPRESENTATIVE)

DATE: 4/27/2010

RECEIPT NO.: 06-133793

SEE THE SECOND PAGE OF THIS PERMIT FOR CONDITIONS AND PROVISIONS.

Field Name	Field Value
Urdist	
Hist_desig	
Water_qual	
Flood	
Historic_d	MCD
Subdiv	
Pud_no	
Na	mna
Land_use	lr
Zone	R6
Gis_acres	0.08843
TI_in_city	Y
TI_in_ugb	Y
Maptaxlot	22E31AD02600
Parcel_num	574453
Tlno	22E31AD02600
Neighborho	Oregon City older 100, 101
Taxpayer	BOUNDS CLARY D & KATHERINE R
Mailaddr	2195 HILLCREST DR
Mailcity	WEST LINN
Mailstate	OR
Mailzip	97068
Incareof	
Situs_stre	804
Situs_comp	
Situs_st_1	9TH
Situs_st_2	ST
Situs_city	OREGON CITY
Situs_zip	97045
Situs	804 9TH ST
Situs_unit	
Situs_chg_	00:00-1980
Assessedva	82464
Exempt_amt	0
M5sav	0
Bldgval	101460
Landval	70857
Totalval	172317
Taxval	82464
Bedrooms	3
Full_baths	1
Landclass	101
Bldgclass	13
Tca_number	062-002
Yearbli	1920
Sale_price	135700
Doc_date	2000-05-19 00:00
Doc_number	2000-032419
Doc_type	M
Living_are	1332
Taxcode	062002
Taxdist1	062
Taxdist2	002

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