

RESOLUTION NO. 3549

BE IT RESOLVED BY THE ALBANY CITY COUNCIL that it does hereby accept the following easement:

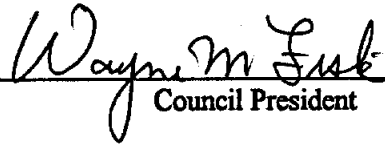
Grantor

Waverly Land Management

Purpose

A permanent public utility easement 20 feet in even width across that property in Linn County deed reference MF Volume 545, page 414.

DATED this 13th day of September 1995.



Council President

ATTEST:



Deputy City Recorder



EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 4th day of August, 1995, by and between WAVERLY LAND MANAGEMENT, AN OREGON GENERAL PARTNERSHIP, herein called Grantors, and the CITY OF ALBANY, a Municipal Corporation, herein called "City."

WITNESSETH:

That for and in consideration of the total compensation to be paid by the City, the grantors have this day bargained and sold and by these presents do bargain, sell, convey, and transfer unto the City of Albany, an 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, undergrowth, 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 PERMANENT PUBLIC UTILITY EASEMENT 20 FEET IN EVEN WIDTH ACROSS THAT PROPERTY IN LINN COUNTY DEED REFERENCE MF VOLUME 545, PAGE 414 WITH THE CENTERLINE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE ANDERSON COX DONATION LAND CLAIM NO. 49; THENCE SOUTH 01°31'00" EAST A DISTANCE OF 858.41 FEET TO A POINT ON THE CENTERLINE OF ALBANY AVENUE; THENCE ALONG SAID CENTERLINE (SOUTH 88°29'00" WEST) A DISTANCE OF 507.92 FEET; THENCE SOUTH 01°31'00" EAST A DISTANCE OF 30.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID ALBANY AVENUE; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE (SOUTH 88°29'00" WEST) A DISTANCE OF 45.00 FEET TO THE NORTHEAST CORNER OF THAT PARCEL DESCRIBED IN LINN COUNTY DEED REFERENCE MF VOLUME 545, PAGE 414; THENCE SOUTH 88°29'00" WEST 26.0 FEET TO A POINT; THENCE SOUTH 01°31'00" EAST 296 FEET MORE OR LESS TO A POINT WHICH INTERSECTS THE NORTH LINE OF THAT EASEMENT RECORDED IN LINN COUNTY DEED REFERENCE BOOK 260, PAGE 589, SAID POINT BEING THE TRUE POINT OF BEGINNING FOR THIS EASEMENT; THENCE NORTH 01°31'00" WEST 196.00' TO ITS POINT OF TERMINUS.

- 2. 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.
- 3. The easement granted is in consideration of \$1.00 and in further

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P.O. Box 490, Albany, OR 97321

consideration of the public improvements to be placed upon said property and the benefits grantors may obtain therefrom.

- 4. The Grantors do 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.
- 5. Upon performing any maintenance, the City shall return the site to original or better condition.
- 6. No permanent structure shall be constructed on this easement.

IN WITNESS WHEREOF, the Grantors have hereunto fixed their hands and seals the day and year above written.

GRANTOR:
WAVERLY LAND MANAGEMENT, AN OREGON
GENERAL PARTNERSHIP

By: _____

By: _____

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

The foregoing instrument was acknowledged before me this _____ day of _____, 19____, by _____ on behalf of Waverly Land Management, an Oregon General Partnership.

Notary Public for Oregon

My Commission Expires: _____

G:\ATTORNEY\GDJ\TACOBELL\ALBANY\KMART\EASEMENT.SEW

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 3549 do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 13th day of September, 1995

Steve Bryant
City Manager

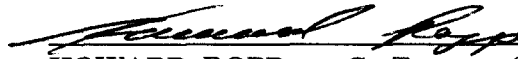
ATTEST:

Norm C. Wilton
City Recorder (Deputy)

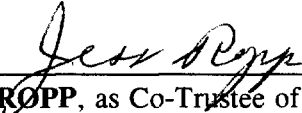


WAVERLY LAND MANAGEMENT

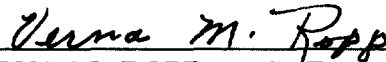
An Oregon General Partnership
By its Undersigned Partners



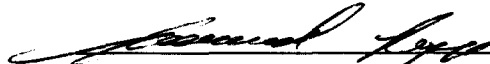
HOWARD ROPP, as Co-Trustee of the AARON M. ROPP REVOCABLE LIVING TRUST dated December 21, 1988



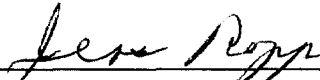
JESS ROPP, as Co-Trustee of the AARON M. ROPP REVOCABLE LIVING TRUST dated December 21, 1988



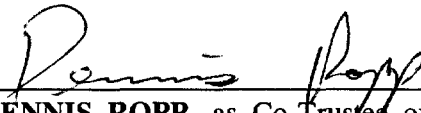
VERNA M. ROPP, as Co-Trustee of the VERNA M. ROPP REVOCABLE LIVING TRUST dated December 21, 1988



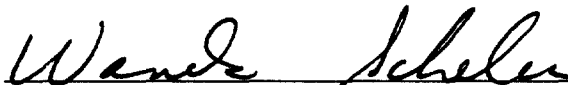
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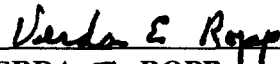
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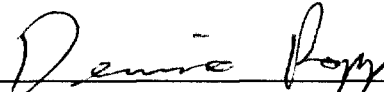
DENNIS ROPP, as Co-Trustee of the SAMUEL M. ROPP REVOCABLE LIVING TRUST dated September 14, 1989



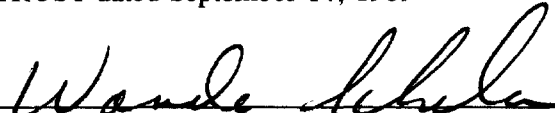
WANDA SCHELER, as Co-Trustee of the SAMUEL M. ROPP REVOCABLE LIVING TRUST dated September 14, 1989



VERDA E. ROPP, as Co-Trustee of the VERDA E. ROPP REVOCABLE LIVING TRUST dated September 14, 1989



DENNIS ROPP, as Co-Trustee of the VERDA E. ROPP REVOCABLE LIVING TRUST dated September 14, 1989



WANDA SCHELER, as Co-Trustee of the VERDA E. ROPP REVOCABLE LIVING TRUST dated September 14, 1989

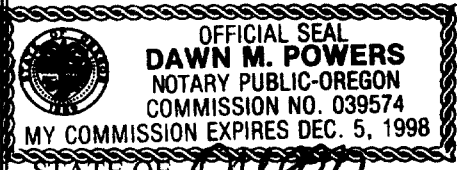
Mark D Mitchell power of attorney for
ANNA M. MITCHELL, as Trustee of the ANNA M. MITCHELL TRUST,
under Trust Agreement dated October 6, 1989

Eva C. Ropp
EVA C. ROPP, as Trustee of the EVA C. ROPP REVOCABLE LIVING TRUST
dated October 2, 1989, as general partner of the ECR Limited Partnership

Joseph M Ropp
JOSEPH M. ROPP, as Trustee of the JOSEPH M. ROPP REVOCABLE
LIVING TRUST dated October 2, 1989, as general partner of the JMR Limited
Partnership

STATE OF OREGON)
) ss.
COUNTY OF Linn) Date: 8/3, 1995.

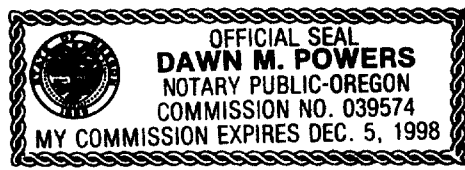
Personally appeared *Mark D. Mitchell*, attorney in fact for
ANNA M. MITCHELL, as Trustee of the ANNA M. MITCHELL TRUST, under Trust
Agreement dated October 6, 1989, and acknowledged the foregoing instrument to be her voluntary act and deed. Before
me:



Dawn M. Powers
Notary Public for OREGON
My Commission Expires: 12/5/98

STATE OF Oregon)
) ss.
COUNTY OF Linn) Date: 8/3, 1995.

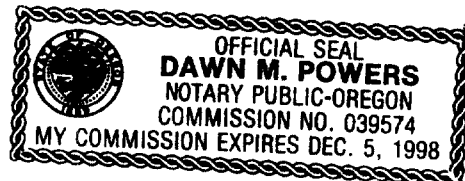
Personally appeared EVA C. ROPP, as Trustee of the EVA C. ROPP REVOCABLE LIVING TRUST dated
October 2, 1989, as general partner of the ECR Limited Partnership, and acknowledged the foregoing instrument to be her
voluntary act and deed. Before me:



Dawn M. Powers
Notary Public for Oregon
My Commission Expires: 12/5/98

STATE OF Oregon)
) ss.
COUNTY OF Linn) Date: 8/3, 1995.

Personally appeared JOSEPH M. ROPP, as Trustee of the JOSEPH M. ROPP REVOCABLE LIVING TRUST
dated October 2, 1989, as general partner of the JMR Limited Partnership, and acknowledged the foregoing instrument
to be his voluntary act and deed. Before me:



Dawn M. Powers
Notary Public for Oregon
My Commission Expires: 12/5/98

Vilas P. Ropp Trustee

VILAS ROPP, as Trustee of the DANIEL M. ROPP TESTAMENTARY TRUST

Vilas P. Ropp Trustee

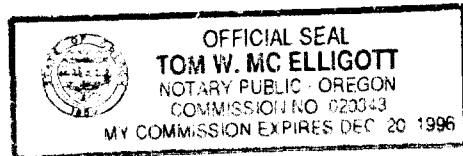
VILAS ROPP, as Trustee of the D.M. ROPP FAMILY FUND TRUST

STATE OF Oregon)
) ss.
COUNTY OF Morrow)

Date: 8-4, 1995.

Personally appeared VILAS ROPP, as Trustee of the DANIEL M. ROPP TESTAMENTARY TRUST and acknowledged the foregoing instrument to be his voluntary act and deed. Before me:

[Signature]
Notary Public for Oregon
My Commission Expires: 12-20-96

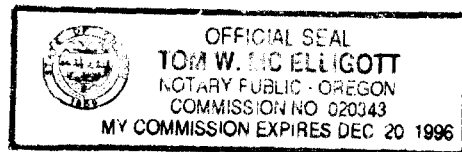


STATE OF Oregon)
) ss.
COUNTY OF Morrow)

Date: 8-4, 1995.

Personally appeared VILAS ROPP, as Trustee of the D.M. ROPP FAMILY FUND TRUST and acknowledged the foregoing instrument to be his voluntary act and deed. Before me:

[Signature]
Notary Public for Oregon
My Commission Expires: 12-20-96

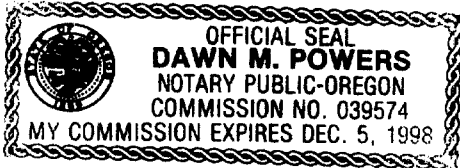


STATE OF Oregon)
) ss.
COUNTY OF Linn)

Date: 8/3, 1995.

Personally appeared **HOWARD ROPP**, as Co-Trustee of the AARON M. ROPP REVOCABLE LIVING TRUST dated December 21, 1988, and acknowledged the foregoing instrument to be his voluntary act and deed. Before me:

Dawn M. Powers
Notary Public for Oregon
My Commission Expires: 12/5/98

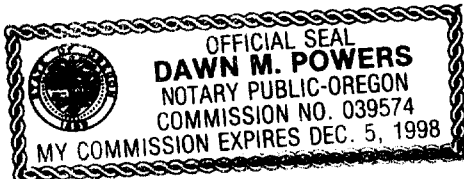


STATE OF Oregon)
) ss.
COUNTY OF Linn)

Date: 8/3, 1995.

Personally appeared **JESS ROPP**, as Co-Trustee of the AARON M. ROPP REVOCABLE LIVING TRUST dated December 21, 1988, and acknowledged the foregoing instrument to be his voluntary act and deed. Before me:

Dawn M. Powers
Notary Public for Oregon
My Commission Expires: 12/5/98



STATE OF Oregon)
) ss.
COUNTY OF Linn)

Date: 8/3, 1995.

Personally appeared **VERNA M. ROPP**, as Co-Trustee of the VERNA M. ROPP REVOCABLE LIVING TRUST dated December 21, 1988, and acknowledged the foregoing instrument to be her voluntary act and deed. Before me:

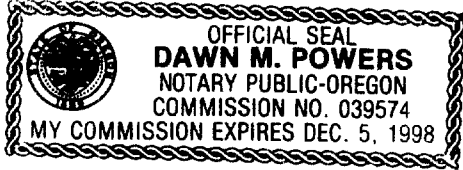
Mary L. Long
Notary Public for Oregon
My Commission Expires: 3-6-97



STATE OF Oregon)
) ss.
COUNTY OF Winn)

Date: 8/3, 1995.

Personally appeared **HOWARD ROPP**, as Co-Trustee of the VERNA M. ROPP REVOCABLE LIVING TRUST dated December 21, 1988, and acknowledged the foregoing instrument to be his voluntary act and deed. Before me:

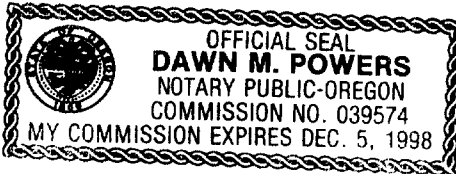


Dawn M. Powers
Notary Public for Oregon
My Commission Expires: 12/5/98

STATE OF Oregon)
) ss.
COUNTY OF Winn)

Date: 8/3, 1995.

Personally appeared **JESS ROPP**, as Co-Trustee of the VERNA M. ROPP REVOCABLE LIVING TRUST dated December 21, 1988, and acknowledged the foregoing instrument to be his voluntary act and deed. Before me:

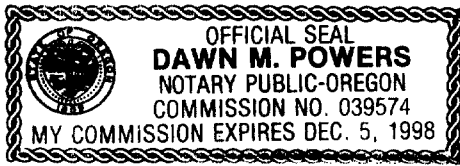


Dawn M. Powers
Notary Public for Oregon
My Commission Expires: 12/5/98

STATE OF Oregon)
) ss.
COUNTY OF Winn)

Date: 8/3, 1995.

Personally appeared **DENNIS ROPP**, as Co-Trustee of the SAMUEL M. ROPP REVOCABLE LIVING TRUST dated September 14, 1989, and acknowledged the foregoing instrument to be his voluntary act and deed. Before me:

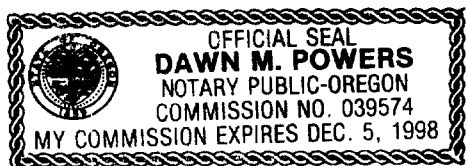


Dawn M. Powers
Notary Public for Oregon
My Commission Expires: 12/5/98

STATE OF Oregon)
) ss.
COUNTY OF Winn)

Date: 8/3, 1995.

Personally appeared **WANDA SCHELER**, as Co-Trustee of the SAMUEL M. ROPP REVOCABLE LIVING TRUST dated September 14, 1989, and acknowledged the foregoing instrument to be her voluntary act and deed. Before me:

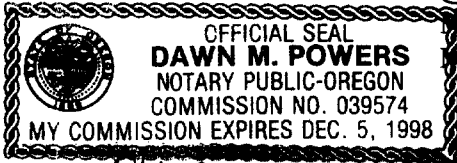


Dawn M. Powers
Notary Public for Oregon
My Commission Expires: 12/5/98

STATE OF Oregon)
) ss.
COUNTY OF Linn) Date: 8/3, 1995.

Personally appeared **VERDA E. ROPP**, as Co-Trustee of the VERDA E. ROPP REVOCABLE LIVING TRUST dated September 14, 1989, and acknowledged the foregoing instrument to be her voluntary act and deed. Before me:

Dawn M. Powers
Notary Public for Oregon
My Commission Expires: 12/5/98



STATE OF Oregon)
) ss.
COUNTY OF Linn) Date: 8/3, 1995.

Personally appeared **DENNIS ROPP**, as Co-Trustee of the VERDA E. ROPP REVOCABLE LIVING TRUST dated September 14, 1989, and acknowledged the foregoing instrument to be his voluntary act and deed. Before me:

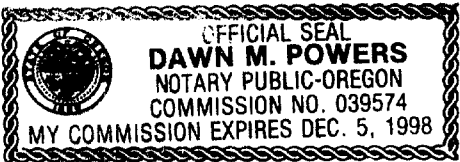
Dawn M. Powers
Notary Public for Oregon
My Commission Expires: 12/5/98



STATE OF Oregon)
) ss.
COUNTY OF Linn) Date: 8/3, 1995.

Personally appeared **WANDA SCHELER**, as Co-Trustee of the VERDA E. ROPP REVOCABLE LIVING TRUST dated September 14, 1989, and acknowledged the foregoing instrument to be her voluntary act and deed. Before me:

Dawn M. Powers
Notary Public for Oregon
My Commission Expires: 12/5/98



[dmp\C:\WPWIN60\EFS\EFSMISC\ROPP-SIG.PAG:8/3/95]

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
Linn County Clerk

By *[Signature]*, Deputy

M
R 70
S 10

A
O 766

MF 145

PAGE _____

8:30 O'clock a.m. 50

SEP 21 1995

Resolution No. 3549

Recorded Document Recorder File No. 2644