

RESOLUTION NO. 3915

A RESOLUTION ACCEPTING THE RELEASE AND SETTLEMENT AGREEMENT AND UTILITY EASEMENTS FROM 4505 PROPERTIES L.L.C.

WHEREAS, at the City Council meeting on May 14, 1997, the Albany City Council formed WL-96-5, Lochner Road Utilities Extension Local Improvement District by Resolution No. 3779; and


WHEREAS, at the May 28, 1997, Council meeting Resolution No. 3792 authorized acquiring utility easements through condemnation from property owned by 4505 Properties L.L.C.; and

WHEREAS, agreement has been reached with 4505 Properties L.L.C.

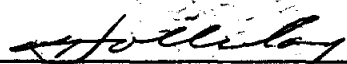
NOW, THEREFORE, BE IT RESOLVED that the Albany City Council accepts this Release and Settlement Agreement and authorizes the City Manager to execute the agreement and conditions for its acceptance.


BE IT FURTHER RESOLVED that the Albany City Council does hereby accept these easements

DATED THIS 25TH DAY OF FEBRUARY 1998.

  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Recorder



## RELEASE AND SETTLEMENT AGREEMENT

This agreement is made and entered into this 26 day of February, 1998, by an between 4505 PROPERTIES, L.L.C., hereinafter referred to as "Owner" and the CITY OF ALBANY, Oregon, a Municipal Corporation, hereinafter referred to as "City".

WHEREAS, the parties hereto have previously entered into discussions and negotiations concerning the City's need to acquire - public utility easements across property of Owner in connection with a municipal project commonly known as WL-95-5, Lochner Utilities L.I.D.; and

WHEREAS, pursuant to said discussions, Owner has granted City access to the right to construct necessary public improvements pursuant to an agreement whereby the parties would arbitrate the compensation to which Owner would be entitled in the event that they could not negotiate an agreed amount; and

WHEREAS, the parties have subsequently, through negotiations, reached an agreement concerning the compensation City would pay to Owner for the necessary easements and for any resulting damage to Owner's remaining property;

NOW, THEREFOR, in consideration of the promises contained herein, it is agreed as follows:

### **Payment from City to Owner**

City agrees to pay Owner the total sum of \$5,000.00 for the easements in question. This sum shall be paid upon receipt of an executed copy of this Release and Settlement Agreement, and upon the acceptance, by the City Council, of the easements in question.

### **Grant of Easements**

The Owner agrees to grant the City the utility easements attached hereto as Exhibits "1" and "2", and by this reference incorporated herein.

### **Owner Not To Be Assessed for Water or Sewer Extension**

The easements in question have allowed City to extend water and sewer along the north edge of Owner's property. These extensions have been made principally to serve a facility owned by the State of Oregon and commonly known as the "Youth Correctional Facility". Owner has asserted that it receives no immediate benefit from the utility extensions and City acknowledges that Owner should not be assessed for the extensions in question, until and unless Owner modifies the existing

improvements located on the site or adds new improvement which benefit from the utilities in question. An *In Lieu of Assessments Ordinance* has been adopted by the City setting owners potential future assessment for the improvements in question. Those *In Lieu of Assessment* charges will not be due until and unless Owner modifies or expands the facility.

**Owner's Right to Connect Public Utilities Along Marion Street**

City currently maintains sewer and water lines along City right of way in Marion Street adjoining Owner's property. City acknowledges Owner's right to connect to these utilities without triggering the requirement to pay the *In Lieu of Assessment* charge noted above so long as the utility extensions are made to the Marion Street infrastructure.

**Release**

Owner releases City from all claims for compensation or damages, of any kind, which may result, in any manner, from City's extension of municipal utilities along Lochner Road and, or, on Owner's property. This release also extends to any further claim for compensation or damages for the easements granted by Owner as set forth above.

**CITY OF ALBANY:**

**4505 PROPERTIES L.L.C.:**

By:   
Steve Bryant, City Manager

By:   
Title: *Managing Partner*  
Verne Casey

EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 26 day of February, 1998, by and between **4505 Properties LLC**, 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, 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 fifteen-foot wide permanent utility easement across that property conveyed to 4505 Properties L.L.C., in Volume 684, Page 200, Linn County Deed Records, the centerline of which is more particularly described as follows and as shown on the attached map labeled EXHIBIT A:

Beginning at a 5/8" iron rod at the northwest corner of Parcel I of said property described in Volume 684, Page 200 lying on the east line of Marion Street and as shown on County Survey 16812; thence southerly along said east line S 0°53'46"E, 40.69 feet to the True Point of Beginning; thence S85°02'15"E, 421.74 feet to a point on the east line of said Parcel I, said point lying S 0°53'46"E, 37.62 feet from the northeast corner of said Parcel I.

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 \$1,600, and in further 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.

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

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

GRANTOR:

4505 PROPERTIES LLC

By: [Signature]  
Verne Casey, Managing Member

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 3915 do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 26<sup>th</sup> day of February, 19 98.

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

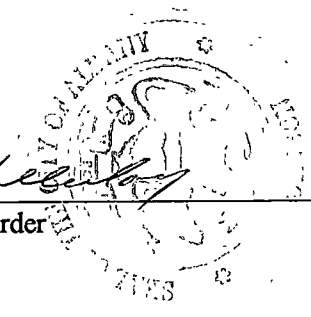
The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of February, 19 97, by Verne Casey, Managing Member of 4505 Properties LLC, an Oregon company, on behalf of the company.

[Signature]  
City Manager

ATTEST:

Mary M Pritchard  
Notary Public for Oregon  
My Commission Expires: 7-5-98

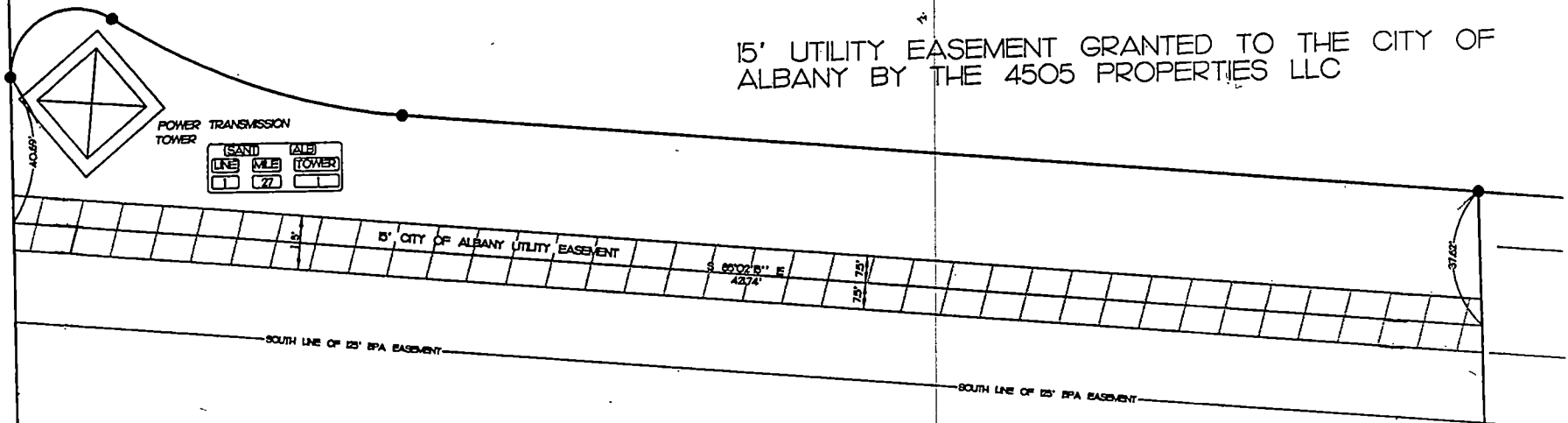
[Signature]  
City Recorder



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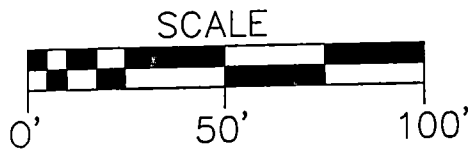


15' UTILITY EASEMENT GRANTED TO THE CITY OF ALBANY BY THE 4505 PROPERTIES LLC



MARION STREET

S 00°33'46" E



DEED RECORDS  
VOL. 684, P 200

TAX LOT 11-3W-19A-200

EXHIBIT "A"

S 00°33'46" E

VOL. 929 PAGE 131

EXHIBIT "A"  
PAGE 3 OF 3

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 RV, Deputy

M  
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S 10  
A  
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MAR 18 3 08 PM '98

MF 929

PAGE 129

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## EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 26 day of February, 1998, by and between **4505 Properties LLC**, 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, 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 thirty-foot wide permanent utility easement across that property conveyed to 4505 Properties L.L.C., in Volume 684, Page 200, Linn County Deed Records, the centerline of which is more particularly described as follows and as shown on the attached map labeled EXHIBIT A:

Beginning at a 5/8" iron rod at the northwest corner of Parcel I of said property described in said Volume 684, Page 200 lying on the east line of Marion Street and as shown on County Survey 16812; thence southerly along said east line S 0°53'46"E, 102.33 feet to the True Point of Beginning; thence S 86°33'54"E, 255.67 feet; thence S 85°02'15"E, 165.46 feet to a point on the east line of said Parcel I, said point lying S 0°53'46"E, 92.40 feet from the northeast corner of said Parcel I.

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 \$3,400, and in further 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:

4505 PROPERTIES LLC

By: [Signature]
Verne Casey, Managing Member

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 3915 do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 26th day of February, 1998.

[Signature]
City Manager

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

The foregoing instrument was acknowledged before me this 13th day of February, 1997, by Verne Casey, Managing Member of 4505 Properties LLC, an Oregon company, on behalf of the company.

ATTEST:

[Signature]
Notary Public for Oregon
My Commission Expires: 7-5-98

[Signature]
City Recorder



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EXHIBIT "A"

POWER TRANSMISSION  
TOWER

(SANT)		(ALB)
LINE	MLE	TOWER
1	27	1

S 00°53'46" E  
102.33'

N 00°53'46" W  
92.40'

NORTH LINE OF 15' UTIL EASEMENT

NORTH LINE OF 20' SS EASEMENT

SOUTH LINE OF 125' BPA EASEMENT

SOUTH LINE OF 125' BPA EASEMENT

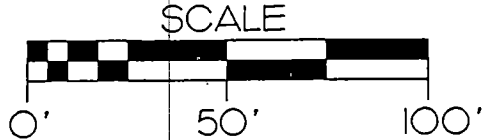


S 86°33'54" E  
255.67'

S 85°02'15" E  
165.46'

MARION STREET

DEED RECORDS  
VOL. 684, P 200  
TAX LOT 11-3W-19A-200



UNPAVED PARKING

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 RV, Deputy

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R 75  
S 10  
A  
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MAR 18 3 08 PM '98

MF 929  
PAGE 125

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Resolution No. 3915

Recorded Document Recorder File No. 6992