

RESOLUTION NO. 5123

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor:

HANS J. ROEBBELEN
KENNETH ROEBBELEN
HERITAGE MALL ASSOCIATES LLC

Purpose:

A new public water line easement for the relocated water line accommodating expansion of the west end of the Heritage Mall.

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


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 27TH DAY OF APRIL 2005.



Mayor

ATTEST:



City Clerk

EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 1st day of April, 2005, by and between the HERITAGE MALL ASSOCIATES LLC, and HANS J. ROEBBELEN and KENNETH ROEBBELEN, hereinafter 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, Grantors have this day bargained and sold and by these presents does bargain, sell, convey, and transfer unto the City of Albany, an Easement 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 Easement hereby granted consists of:

A permanent public water line easement over a portion of Lot 6 of the Heritage Mall Subdivision owned by Hans J. Roebbelen and Kenneth Roebbelen, and over portions of Lots 7 and 10 of the Heritage Mall Subdivision owned by Heritage Mall Associates LLC, being more particularly described on the attached Exhibit A and shown on the attached map labeled Exhibit B.

2. The 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, receipt of which is acknowledged by the Grantors, 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 Easement area to original or better condition.
6. No permanent structure shall be constructed upon the Easement area.

Return to: City of Albany - Recorder
P.O. Box 490, Albany, OR 97321

IN WITNESS WHEREOF, the Grantors have hereunto fixed their hand and seal the day and year written below.

GRANTORS:

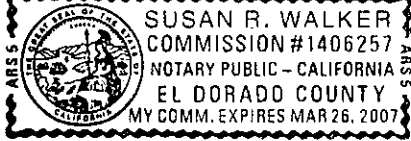
HERITAGE MALL ASSOCIATES LLC

By: Hans J. Roebbelen

Title: President

STATE OF California)
County of El Dorado) ss.
City of El Dorado Hills)

The instrument was acknowledged before me this 4th day of April, 2005, by Hans Roebbelen (title) President, as a representative of Heritage Mall Associates LLC.



Susan R. Walker
Notary Public for California
My Commission Expires: 3.26.07

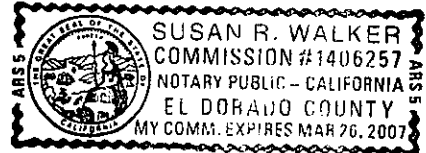
HERITAGE MALL ASSOCIATES LLC

By: Kenneth Roebbelen

Title: Vice President

STATE OF California)
County of El Dorado) ss.
City of El Dorado Hills)

The instrument was acknowledged before me this 4th day of April, 2005, by Kenneth Roebbelen (title) Vice President, as a representative of Heritage Mall Associates LLC.



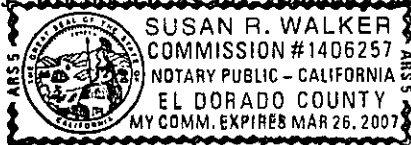
Susan R. Walker
Notary Public for California
My Commission Expires: 3.26.07

HANS J. ROEBBELEN

By: Hans J. Roebbelen
Hans J. Roebbelen

STATE OF California)
County of El Dorado) ss.
City of El Dorado Hills)

The instrument was acknowledged before me this 4th day of April, 2005, by Hans J. Roebbelen as his voluntary act and deed.



Susan R. Walker
Notary Public for California
My Commission Expires: 3.26.07

KENNETH ROEBBELEN

By: Kenneth Roebbelen
Kenneth Roebbelen

STATE OF California)
County of El Dorado) ss.
City of El Dorado Hills)

The instrument was acknowledged before me this 4th day of April, 2005, by Kenneth Roebbelen as his voluntary act and deed.

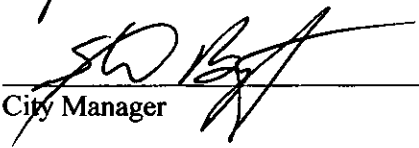


Susan R. Walker
Notary Public for California
My Commission Expires: 3.26.07

CITY OF ALBANY:

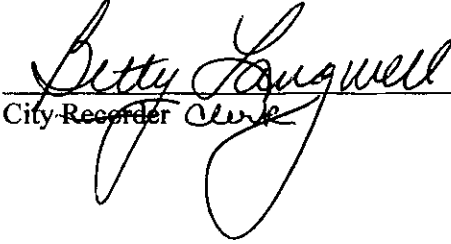
STATE OF OREGON)
County of Linn) ss.
City of Albany)

I, Steve Bryant as City Manager of the City of Albany, Oregon, pursuant to Resolution Number 5123 do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof, this 27 day of April, 2005.



City Manager

ATTEST:



City Recorder

EXHIBIT "A"

A 15.00 foot wide strip of land being 7.50 feet on each side of the following described centerline.

Commencing at the Northeast corner of Lot 6 in the Heritage Mall Subdivision recorded in Page 17, Volume 18, of Linn County record of plats; thence South $86^{\circ}57'09''$ East 116.32 feet to the **True Point of Beginning**, said point lying on the center line of the existing waterline easement recorded in Volume 502, Page 461 of Linn County Records and 66.96 feet from Point "K" as described in said existing easement; thence South $01^{\circ}38'44''$ East 58.75 feet to a point; thence South $88^{\circ}40'47''$ West 122.03 feet to a point; thence South $01^{\circ}34'12''$ East 247.19 feet to a point; thence South $46^{\circ}22'55''$ East 12.77 feet to a point; thence North $88^{\circ}48'22''$ East 80.52 feet to centerline of said existing waterline easement and the terminus point of this centerline description, which also lies 29.58 feet from Point "I" as described in said existing easement.

POINT OF COMMENCEMENT

POINT OF BEGINNING

S 86°57'09" E - 116.32'

66.96'

POINT "K"

EXISTING EASEMENT V 502, P 461

LOT 6

LOT 10

S 88°40'47" W - 122.03'

S 01°38'44" E - 58.75'

LOT 7

EXISTING EASEMENT V 502, P 461

S 01°34'12" E - 227.19'

S 46°22'55" E - 12.77'

N 88°48'22" E - 80.52'

EXISTING EASEMENT V 502, P 461

POINT "I"

22.08'



SCALE: 1" = 50'



PACWEST ENGINEERING

1530 Ninth Avenue SE

Albany, OR 97321

Phone (541) 926-7634

Fax (541) 926-7539

DWG: EXHIBIT.DWG

DATE:

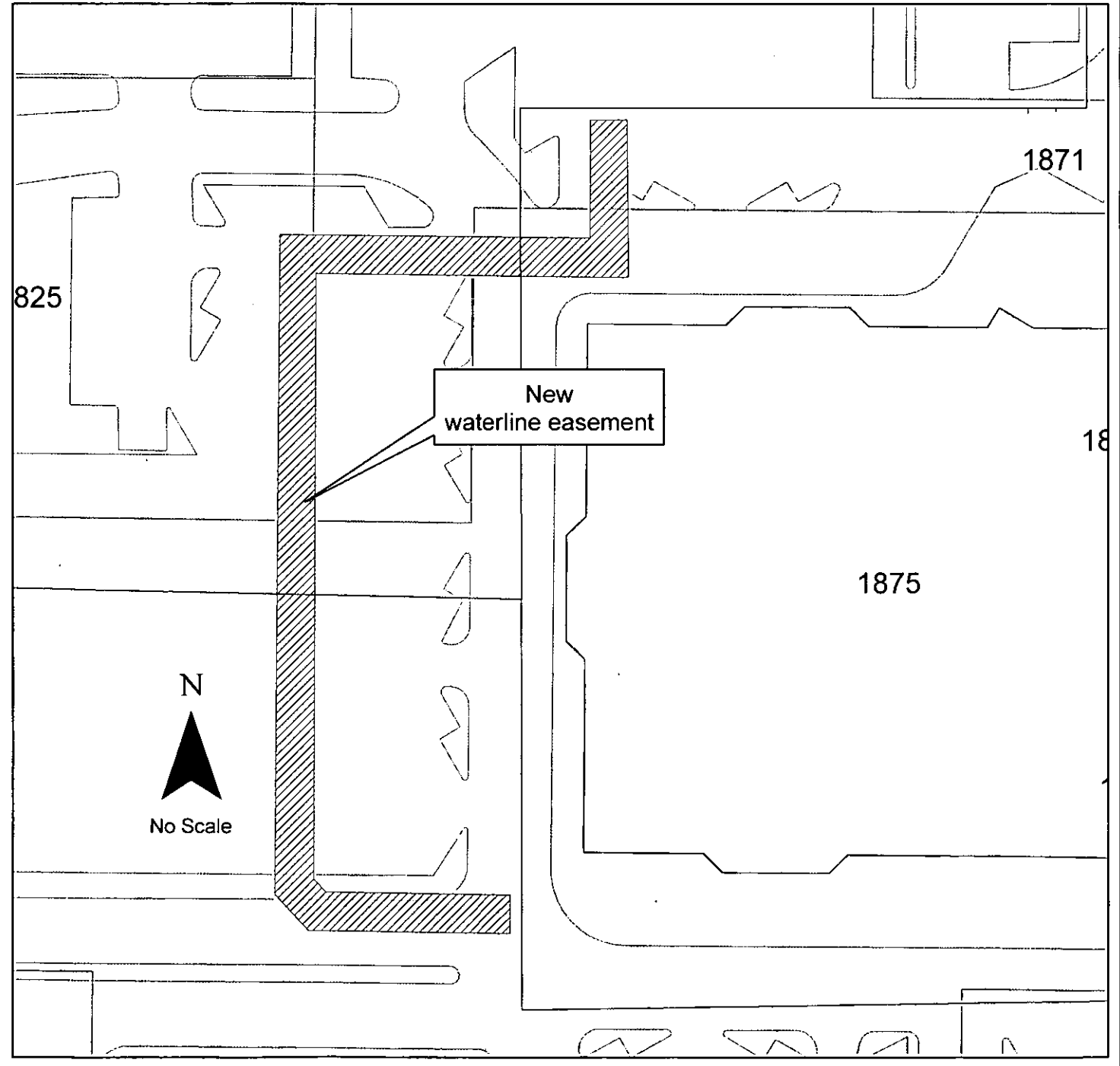
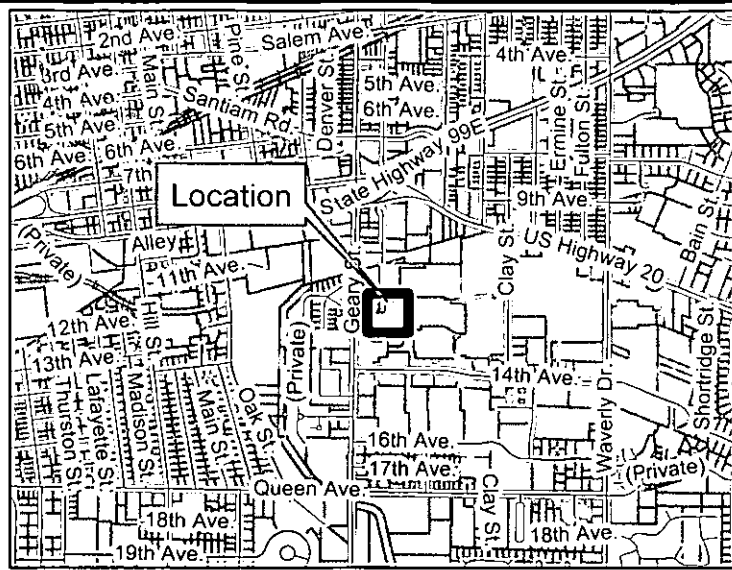
PROJECT: 04-050

EXHIBIT C

Heritage Mall New Waterline Easement



Geographic Information Services



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 LAJ Deputy PAGE MF 1710
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Resolution No. 5123

Recorded Document Recorder File 4548