

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

<u>Grantor</u>	<u>Purpose</u>
Waverly Land Management, an Oregon General Partnership	Four 15-foot utility easements over water mains, hydrants, and meters for the Kohl's project, lying between Killdeer Avenue and Airport Road.

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

DATED AND EFFECTIVE THIS 12TH DAY OF SEPTEMBER 2007.


Mayor

ATTEST:

City Clerk

LINN COUNTY
Recording Cover Sheet
All Transactions, ORS: 205.234

LINN COUNTY, OREGON **2007-24910**
E-UT
Cnt=2 Stn=1 COUNTER **10/19/2007 02:44:20 PM**
\$60.00 \$5.00 \$11.00 \$10.00 **\$86.00**



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



After Recording Return To:

City of Albany City Clerk _____

PO Box 490 _____

Albany, OR 97321 _____

All Tax Statements Should Be Sent To:

Exempt _____

1. Name/Title of Transaction - by ORS 205.234 (a)

EASEMENT FOR UTILITIES AND SIDEWALKS

2. Grantor/Direct Party - required by ORS 205.125(1)(b) and ORS 205.160

Waverly Land Management, an Oregon General Partnership

3. Grantee/Indirect Party - required by ORS 205.125(1)(a) and ORS 205.160

City of Albany

4. True and Actual Consideration (if there is one), ORS 93.030

\$1.00

EASEMENT FOR UTILITIES AND SIDEWALKS

THIS AGREEMENT, made and entered into this 23 day of August, 2007, by and between Waverly Land Management, an Oregon General Partnership, hereinafter called Grantor, 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 grantor has this day bargained and sold and by these presents does 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 and sidewalks for the purpose maintaining a sidewalk and 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:

Four utility easements over water mains, hydrants, and meters for the Kohl's project, lying between Killdeer Avenue and Airport Road. See legal descriptions and maps on attached Exhibits A through 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 \$1.00, receipt of which is acknowledged by the Grantor, and in further consideration of the public improvements to be placed upon said property and the benefits grantors may obtain therefrom.
4. The Grantor does 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 Grantor has hereunto fixed their hand and seal the day and year written below.

GRANTOR:

Waverly Land Management, an Oregon General Partnership

Dennis Ropp
Signature

Dennis Ropp Authorized Rep
Printed Name and Title

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

The instrument was acknowledged before me this 23rd day of August, 2007, by Dennis Ropp, as a representative of Waverly Land Management, an Oregon General Partnership.



C. Marie Redner
Notary Public for Oregon
My Commission Expires: July 29, 2008

CITY OF ALBANY:

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

I, Wes Hare, as City Manager of the City of Albany, Oregon, pursuant to Resolution Number ⁵⁴⁸² do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 12 day of September, 2007.

Wes Hare
City Manager

ATTEST:
Betty Langwell
City Clerk

EXHIBIT I

11SO3W04CB00108

Four utility easements over water mains, hydrants, and meters for the Kohl's project.



Geographic Information Services

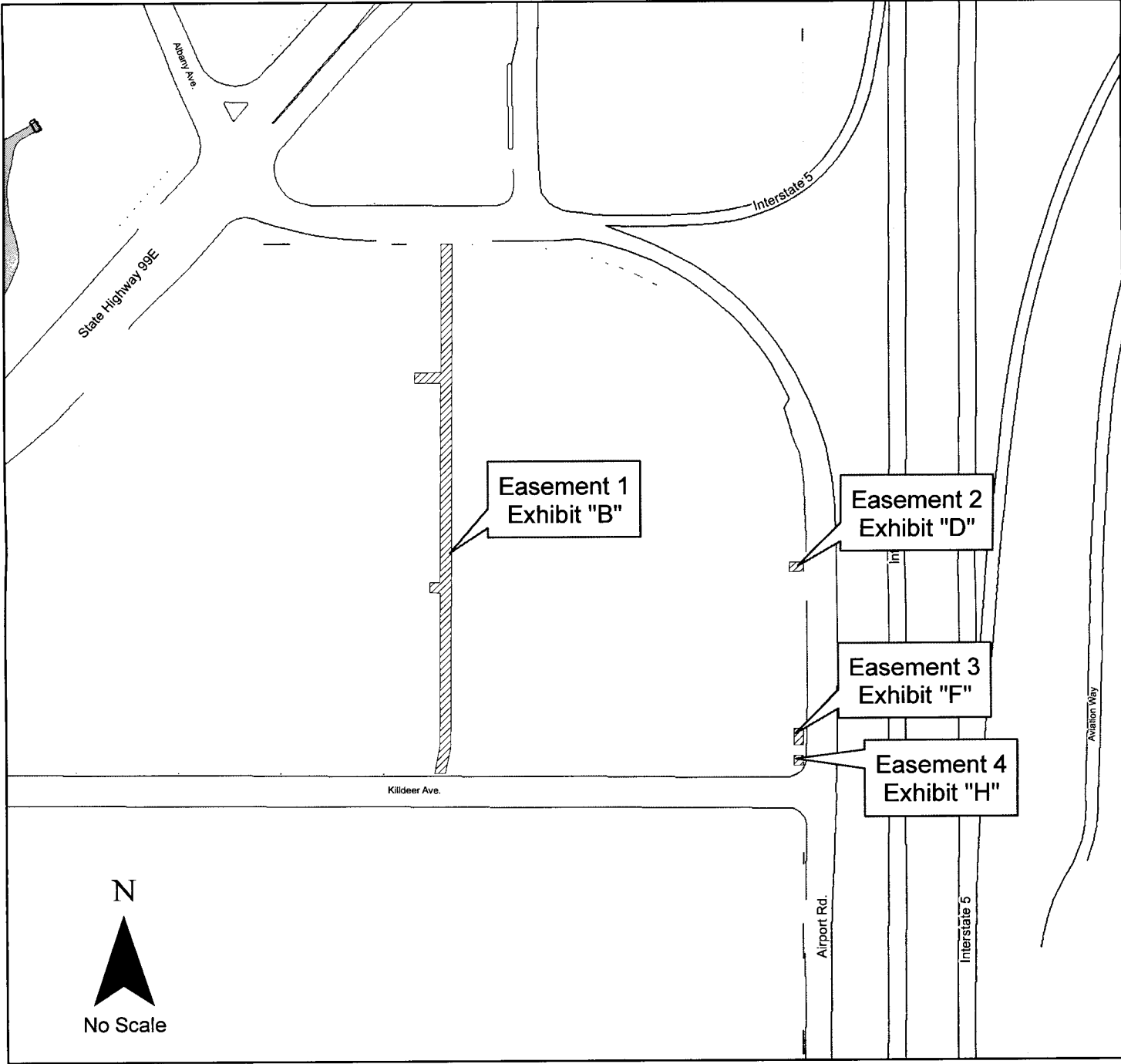
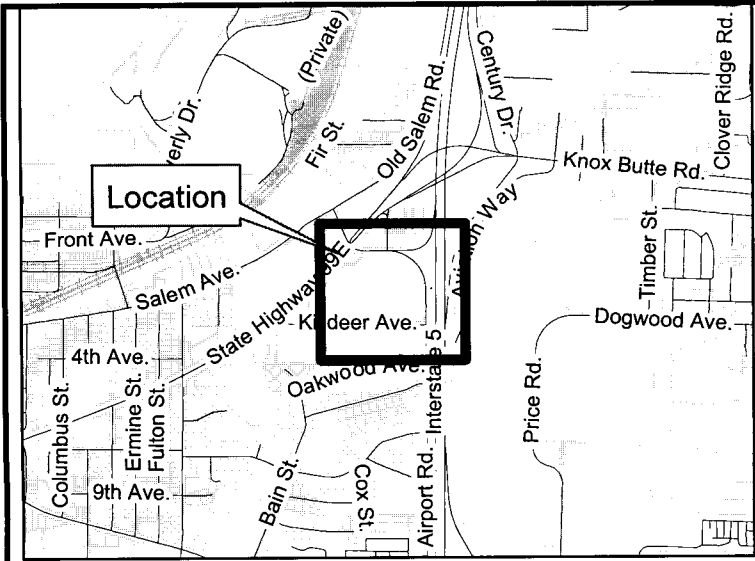


Exhibit "A"

LEGAL DESCRIPTION
Kohl's - Albany (KOH6080)
Waterline Easement Legal Description
August 17, 2007
Page 1 OF 8

A 15.00 foot wide Waterline Easement being a portion of that certain tract of land described in Bargain and Sale Deed, Book 545, Page 406, Linn County Deed Records, located in the southwest one-quarter of Section 4, Township 11 South, Range 3 West, Willamette Meridian, Linn County, Oregon, being 7.50 feet on each side of the centerlines more particularly described as follows:

COMMENCING at the Northeast corner of the Anderson Cox Donation Land Claim No. 49 of said section; Thence South 29°37'56" West, 1037.92 feet to a point on the southerly Right-of-Way line of Albany Avenue, being 30.00 feet southerly of the centerline when measured perpendicularly thereto, from which the Northwest corner of Parcel "B" of Minor Land Partition C.S. 18533 of the Linn County Survey Records bears North 88°33'18" East, 15.57 feet, being the **POINT OF BEGINNING**; Thence South 01°29'52" East, 192.68 feet to a point later referred to as Point "A"; Thence continuing South 01°29'52" East, 307.81 feet to a point later referred to as "Point B"; Thence continuing South 01°29'52" East, 232.51 feet to an angle point; Thence South 09°59'13" West, 44.71 feet to the **POINT OF TERMINUS**, said point being on the northerly Right-of-Way line of Killdeer Avenue, from which the Southwest corner of said Parcel "B" bears South 88°31'27" West, 6.05 feet. The sidelines of which, shall be lengthened or shortened to terminate at said southerly Right-of-Way line of Albany Avenue and said northerly Right-of-Way line of Killdeer Avenue.

ALSO, beginning at the aforementioned Point "A"; Thence South 88°30'08" West, 45.00 feet to the **POINT OF TERMINUS**.

ALSO, beginning at the aforementioned Point "B"; Thence South 88°30'08" West, 23.00 feet to the **POINT OF TERMINUS**.

The attached Exhibit "B" entitled "15' WIDE WATERLINE EASEMENT (1)" is made a part hereof.

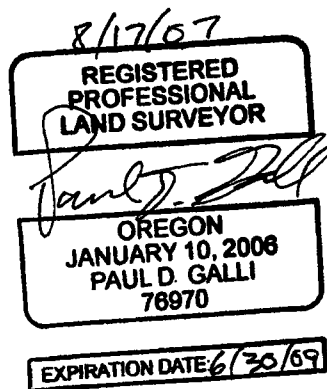
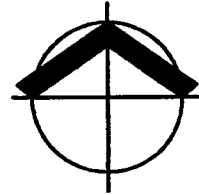
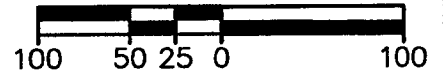


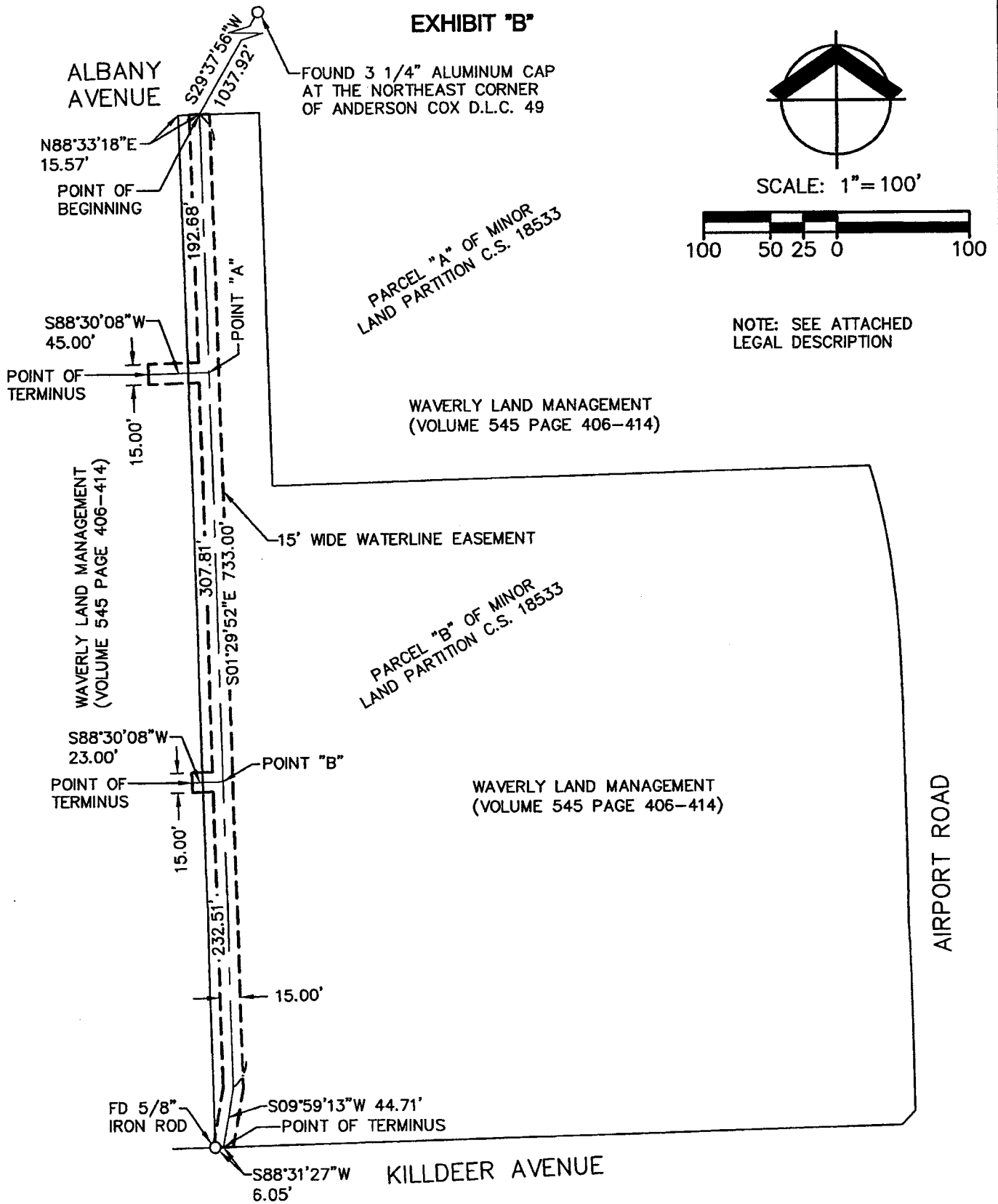
EXHIBIT "B"



SCALE: 1" = 100'



NOTE: SEE ATTACHED LEGAL DESCRIPTION



W R G
DESIGN INC.

5415 SW Westgate Dr.
Ste 100 / Portland, OR
97221 / Tel. 503.419.2500

**15' WIDE WATERLINE EASEMENT (1)
BARGAIN AND SALE DEED (BOOK 545, PAGE 406)**

SW 1/4 OF SECTION 4, TOWNSHIP 11 SOUTH, RANGE 3 WEST,
WILLAMETTE MERIDIAN, CITY OF ALBANY, LINN COUNTY, OREGON

PROJECT NO. KOH6080
DATE: 08/17/2007
BY: MLJ
SCALE: 1" = 100'
SHEET NO. 2 OF 8

Exhibit "C"

LEGAL DESCRIPTION

Kohl's - Albany (KOH6080)

Waterline Easement Legal Description

August 17, 2007

Page 3 OF 8

A 15.00 foot wide Waterline Easement being a portion of that certain tract of land described in Bargain and Sale Deed, Book 545, Page 406, Linn County Deed Records, located in the southwest one-quarter of Section 4, Township 11 South, Range 3 West, Willamette Meridian, Linn County, Oregon, being 7.50 feet on each side of the centerline more particularly described as follows:

COMMENCING at the Northeast corner of the Anderson Cox Donation Land Claim No. 49 of said section; Thence South 00°28'17" East, 1349.43 feet to a point on the easterly Right-of-Way line of Airport Road, being 25.00 feet westerly of the centerline when measured perpendicularly thereto, being the **POINT OF BEGINNING**; Thence South 88°30'08" West, 19.00 feet to the **POINT OF TERMINUS**. The easterly sidelines of which, shall be lengthened or shortened to terminate at said westerly Right-of-Way line of Airport Road.

The attached Exhibit "D" entitled "15' WIDE WATERLINE EASEMENT (2)" is made a part hereof.

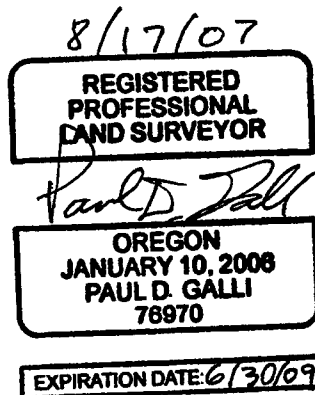
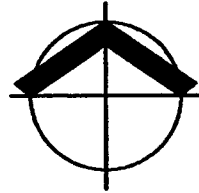
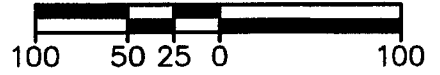


EXHIBIT "D"

ALBANY AVENUE



SCALE: 1" = 100'



NOTE: SEE ATTACHED LEGAL DESCRIPTION

PARCEL "A" OF MINOR LAND PARTITION C.S. 18533

FOUND 3 1/4" ALUMINUM CAP AT THE NORTHEAST CORNER OF ANDERSON COX D.L.C. 49

WAVERLY LAND MANAGEMENT (VOLUME 545 PAGE 406-414)

PARCEL "B" OF MINOR LAND PARTITION C.S. 18533

WAVERLY LAND MANAGEMENT (VOLUME 545 PAGE 406-414)

S88°30'08"W 19.00'

POINT OF TERMINUS

15' WIDE WATERLINE EASEMENT

POINT OF BEGINNING

S00°28'17"E 1349.43'

15.00'

AIRPORT ROAD

KILLDEER AVENUE

W R G
DESIGN INC.

5415 SW Westgate Dr,
Ste 100 / Portland, OR
97221 / Tel. 503.419.2500

15' WIDE WATERLINE EASEMENT (2)
BARGAIN AND SALE DEED (BOOK 545, PAGE 406)

SW 1/4 OF SECTION 4, TOWNSHIP 11 SOUTH, RANGE 3 WEST,
WILLAMETTE MERIDIAN, CITY OF ALBANY, LINN COUNTY, OREGON

PROJECT NO. KOH6080
DATE: 08/17/2007
BY: MLJ
SCALE: 1" = 100'
SHEET NO. 4 OF 8

Exhibit "E"

LEGAL DESCRIPTION

Kohl's - Albany (KOH6080)

Waterline Easement Legal Description

August 17, 2007

Page 5 OF 8

A 25.00 foot wide Waterline Easement being a portion of that certain tract of land described in Bargain and Sale Deed, Book 545, Page 406, Linn County Deed Records, located in the southwest one-quarter of Section 4, Township 11 South, Range 3 West, Willamette Meridian, Linn County, Oregon, being 12.50 feet on each side of the centerline more particularly described as follows:

COMMENCING at the Northeast corner of the Anderson Cox Donation Land Claim No. 49 of said section; Thence South 00°38'19" East, 1607.93 feet to a point on the easterly Right-of-Way line of Airport Road, being 25.00 feet westerly of the centerline when measured perpendicularly thereto, being the **POINT OF BEGINNING**; Thence South 88°38'37" West, 13.00 feet to the **POINT OF TERMINUS**. The easterly sidelines of which, shall be lengthened or shortened to terminate at said westerly Right-of-Way line of Airport Road.

The attached Exhibit "F" entitled "25' WIDE WATERLINE EASEMENT (3)" is made a part hereof.

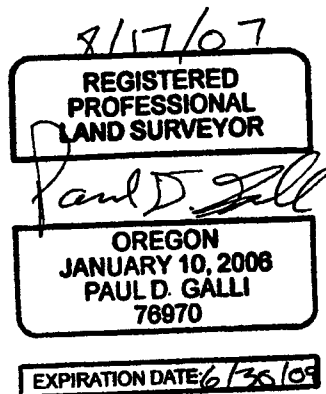
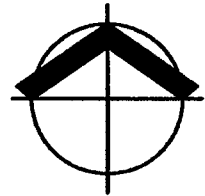
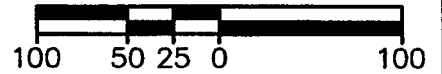


EXHIBIT 'F'

ALBANY AVENUE



SCALE: 1" = 100'



PARCEL "A" OF MINOR
LAND PARTITION C.S. 18533

NOTE: SEE ATTACHED
LEGAL DESCRIPTION

WAVERLY LAND MANAGEMENT
(VOLUME 545 PAGE 406-414)

FOUND 3 1/4"
ALUMINUM CAP AT
THE NORTHEAST
CORNER OF ANDERSON
COX D.L.C. 49

PARCEL "B" OF MINOR
LAND PARTITION C.S. 18533

WAVERLY LAND MANAGEMENT
(VOLUME 545 PAGE 406-414)

S00°38'19"E 1607.93'

AIRPORT ROAD

S88°38'37"W 13.00'

POINT OF TERMINUS

POINT OF BEGINNING

25' WIDE WATERLINE EASEMENT

25.00'

KILLDEER AVENUE

W R G
DESIGN INC.

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Ste 100 / Portland, OR
97221 / Tel. 503.419.2500

25' WIDE WATERLINE EASEMENT (3)
BARGAIN AND SALE DEED (BOOK 545, PAGE 406)

SW 1/4 OF SECTION 4, TOWNSHIP 11 SOUTH, RANGE 3 WEST,
WILLAMETTE MERIDIAN, CITY OF ALBANY, LINN COUNTY, OREGON

PROJECT NO. KOH6080
DATE: 08/17/2007
BY: MLJ
SCALE: T = 100'
SHEET NO. 6 OF 8

Exhibit "G"

LEGAL DESCRIPTION

Kohl's - Albany (KOH6080)

Waterline Easement Legal Description

August 17, 2007

Page 7 OF 8

A 15.00 foot wide Waterline Easement being a portion of that certain tract of land described in Bargain and Sale Deed, Book 545, Page 406, Linn County Deed Records, located in the southwest one-quarter of Section 4, Township 11 South, Range 3 West, Willamette Meridian, Linn County, Oregon, being 7.50 feet on each side of the centerline more particularly described as follows:

COMMENCING at the Northeast corner of the Anderson Cox Donation Land Claim No. 49 of said section; Thence South 00°39'15" East, 1643.26 feet to a point on the easterly Right-of-Way line of Airport Road, being 25.00 feet westerly of the centerline when measured perpendicularly thereto, being the **POINT OF BEGINNING**; Thence South 88°28'49" West, 13.00 feet to the **POINT OF TERMINUS**. The easterly sidelines of which, shall be lengthened or shortened to terminate at said westerly Right-of-Way line of Airport Road.

The attached Exhibit "H" entitled "15' WIDE WATERLINE EASEMENT (4)" is made a part hereof.

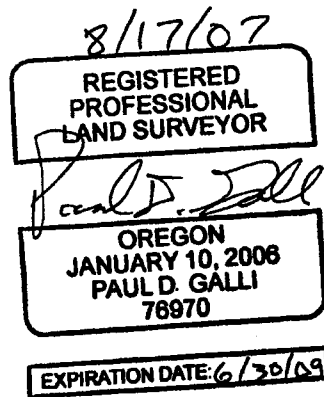


EXHIBIT "H"

ALBANY AVENUE

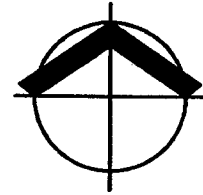
PARCEL "A" OF MINOR
LAND PARTITION C.S. 18533

WAVERLY LAND MANAGEMENT
(VOLUME 545 PAGE 406-414)

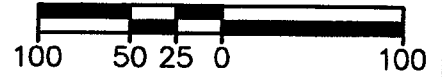
PARCEL "B" OF MINOR
LAND PARTITION C.S. 18533

WAVERLY LAND MANAGEMENT
(VOLUME 545 PAGE 406-414)

KILLDEER AVENUE



SCALE: 1" = 100'



NOTE: SEE ATTACHED
LEGAL DESCRIPTION

FOUND 3 1/4"
ALUMINUM CAP AT
THE NORTHEAST
CORNER OF ANDERSON
COX D.L.C. 49

S00°39'15"E 1643.26'

AIRPORT ROAD

15.00'

S88°28'49"W 13.00'

POINT OF TERMINUS

POINT OF BEGINNING

15' WIDE
WATERLINE
EASEMENT

W R G
DESIGN INC.

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Ste 100 / Portland, OR
97221 / Tel. 503.419.2500

15' WIDE WATERLINE EASEMENT (4)
BARGAIN AND SALE DEED (BOOK 545, PAGE 406)

SW 1/4 OF SECTION 4, TOWNSHIP 11 SOUTH, RANGE 3 WEST,
WILLAMETTE MERIDIAN, CITY OF ALBANY, LINN COUNTY, OREGON

PROJECT NO. KOH6080
DATE: 08/17/2007
BY: MLJ
SCALE: 1" = 100'
SHEET NO. 8 OF 8

Resolution No. 5482

Recorded Document Recorder File No. 4982