

Vol 1 PG 41
27-5-19

CERTIFICATION

STATE OF OREGON)
COUNTY OF DOUGLAS) SS
CITY OF ROSEBURG)

I, Sheila R. Cox, City Recorder for the City of Roseburg, Oregon, declare that I have compared the attached copy of Ordinance No.3025, vacating a portion of Jackson Street Right-of-Way with the original, and hereby certify that it is a full and true copy of said document.


Sheila R. Cox, City Recorder

Dated July 31, 1998

FILED

Date: 8-20-98 By: JP

This survey consists of:

for Map: Vol 1 PG 41

Narrative: _____

Corner Rpt: _____

DOUGLAS COUNTY
SURVEYOR

C.S. File No. 66/1-6A

AN ORDINANCE VACATING A PORTION OF NE JACKSON STREET RIGHT-OF-WAY IN THE CITY OF ROSEBURG, AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Roseburg Municipal Code Chapter 4.06, upon receipt of a report from the Community Development Department, the City Recorder initiated proceedings to vacate a portion of NE Jackson Street Right-of-Way located in the City of Roseburg, more particularly described in Section 1 of this ordinance and shown on the map attached hereto as Exhibit "A" of this ordinance; and

WHEREAS, the City Recorder published a notice of public hearing on the proposed vacation to be held before the Roseburg City Council on June 22, 1998, in the News-Review, a newspaper of general circulation in the City of Roseburg, Oregon, on June 7 and 14, 1998; posted said notice at or near each end of the proposed vacation area, and in at least two conspicuous places within the proposed vacation area and mailed such notice to all affected property owners, not less than 14 days prior to the date of the hearing, all of which more fully appear in the proof of publication, posting and mailing on file in the City Recorder's Office; and

WHEREAS, such public hearing was duly held at the above mentioned time and place, and all persons desiring to be heard on said matter were heard;

NOW, THEREFORE, THE CITY OF ROSEBURG ORDAINS AS FOLLOWS:

Section 1. A portion of NE Jackson Street Right-of-Way in the City of Roseburg, and more particularly described as follows, is hereby vacated:

A parcel of land lying in Sections 18 and 19 of Township 27 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, said parcel being more particularly described as follows:

Beginning at a 5/8" iron rod on the southeasterly right-of-way line of Jackson Street, said point being the southwest corner of that property described in Instrument No. 89-19192 as recorded in the Deed Records of Douglas County; thence S29°45'29"W 192.11 feet along said southeasterly right-of-way line to its intersection with the north right-of-way line of Diamond Lake Boulevard (County Road No. 4); thence N83°49'31"W 109.11 feet to the intersection of said north right-of-way line with the northwesterly right-of-way line of the above said Jackson Street; thence N29°45'29"E 382.57 feet and N28°59'53"W 31.39 feet along said northwesterly right-of-way line to the southerly right-of-way line of Odell Street; thence parallel to and 30.00 feet southerly of the centerline of said Odell Street along the arc of a 208.73-foot radius curve to the right (the long chord of which bears S77°19'26"E 81.91 feet) 82.44 feet and S60°14'31"E 48.54 feet to the northwest corner of that property described

in Instrument No. 79-10921; thence S29°45'29"W 187.15 feet along the above said southeasterly right-of-way line of Jackson Street to the point of beginning and containing 0.92 acres, more or less.

Excepting therefrom that portion of the above described parcel lying in the Southern Pacific Railroad right-of-way.

Section 2. A permanent easement for use by all public utilities, now in existence or as may be in existence in the future, is hereby granted pursuant to the easement agreements attached as Exhibits B-1, B-2 and B-3 to this ordinance, over the property described in the attached Exhibits B-1, B-2 and B-3; said easements to be maintained as an access to said utilities by the benefited property owners acquiring title to the subject property in accordance with Section 3 of this ordinance.

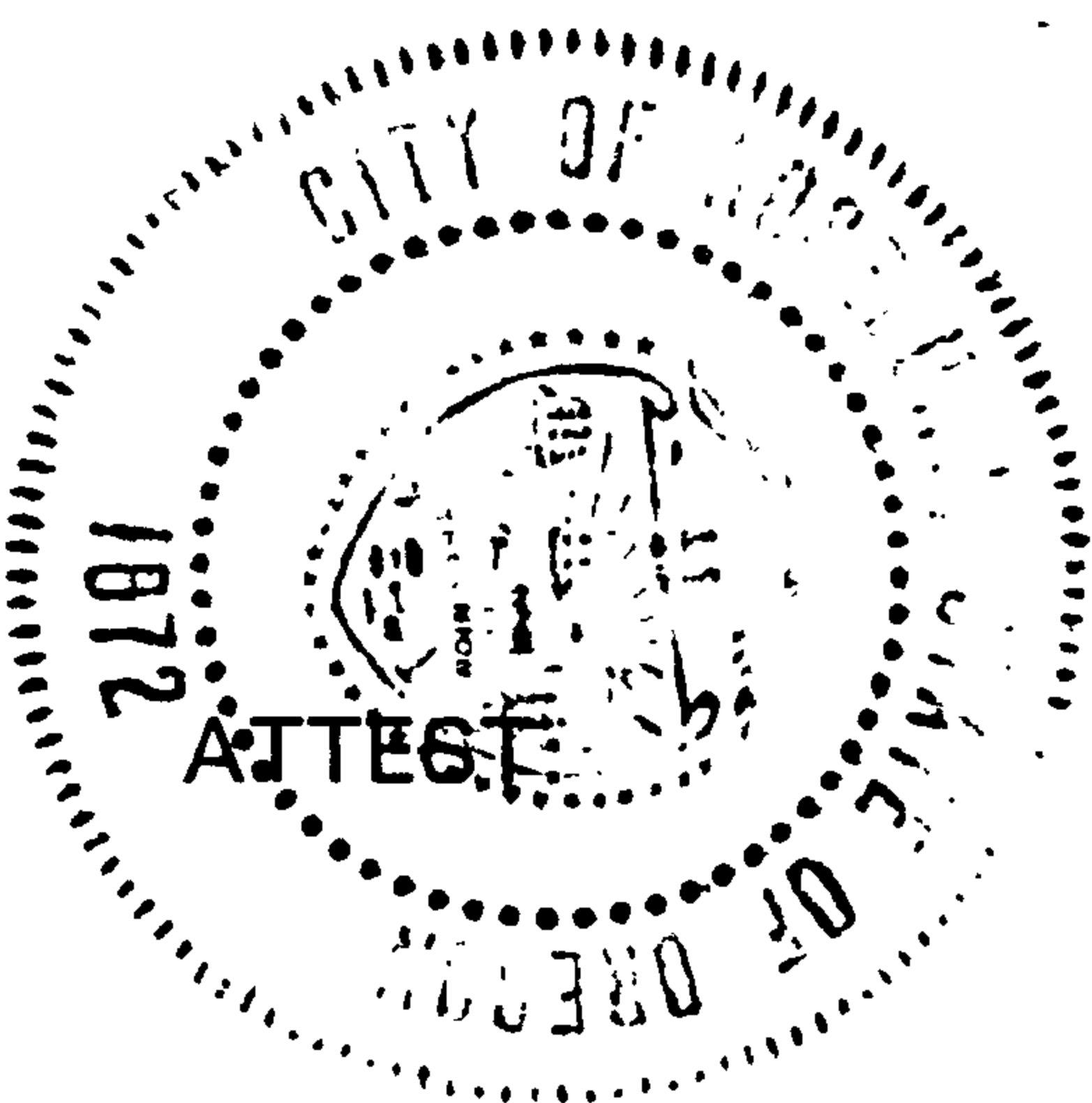
Section 3. The title to the property vacated by this ordinance shall attach to the lands bordering on such equal portions in accordance with ORS 271.140.

Section 4. Pursuant to ORS 271.150, the City Recorder is hereby directed to file a certified copy of this ordinance and the map attached hereto as Exhibit A with the Douglas County Clerk, Douglas County Assessor and Douglas County Surveyor.

Section 5. The matters contained herein concern the peace, health and safety of the citizens of Roseburg, and therefore, an emergency is hereby declared to exist and this ordinance shall become effective immediately upon its passage by the Council and approval by the Mayor.

ADOPTED BY THE CITY COUNCIL THIS 13TH DAY OF JUNE 1998, AND

APPROVED BY THE MAYOR THIS 13TH DAY OF JUNE, 1998.



Jeri Kimmel

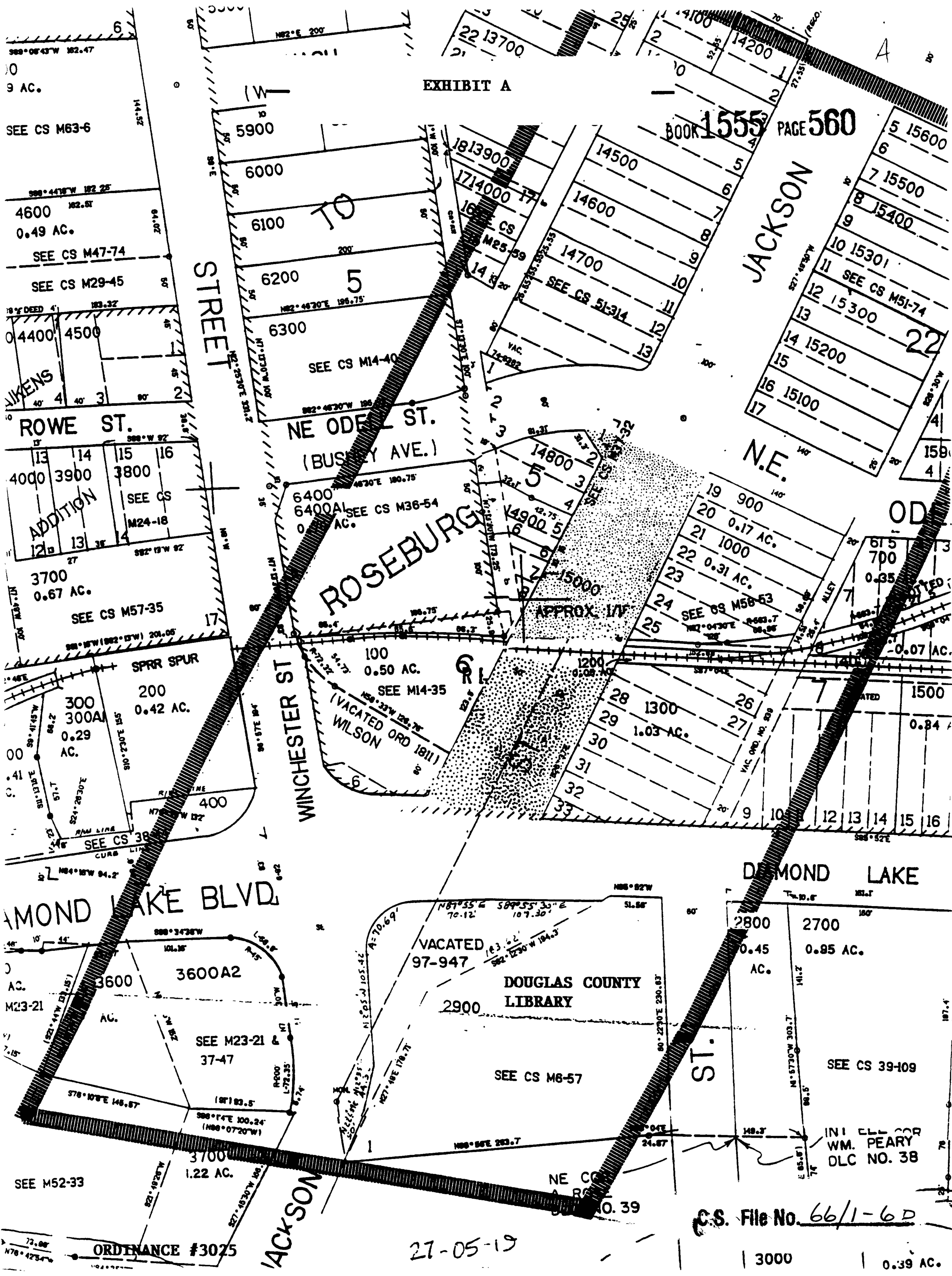
Jeri Kimmel, Mayor

Sheila R. Cox

Sheila R. Cox, City Recorder

EXHIBIT A

BOOK 1555 PAGE 560



SEE CS M63-6

4600 0.49 AC. SEE CS M47-74

SEE CS M29-45

4400 4500

ROWE ST.

4000 3900 3800

ADDITION

3700 0.67 AC. SEE CS M57-35

SPRR SPUR

300 300A 0.29 AC.

400

DIAMOND LAKE BLVD.

3600 3600A2 AC.

SEE M23-21 & 37-47

3700 1.22 AC. SEE M52-33

ORDINANCE #3025

27-05-19

C.S. File No. 66/1-6D

3000

0.39 AC.

EXHIBIT 'A'*DESCRIPTION OF A PORTION OF JACKSON STREET
TO BE VACATED BY CITY OF ROSEBURG*

A parcel of land lying in Sections 18 and 19 of Township 27 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, said parcel being more particularly described as follows:

Beginning at a 5/8" iron rod on the southeasterly right-of-way line of Jackson Street, said point being the southwest corner of that property described in Instrument No. 89-19192 as recorded in the Deed Records of Douglas County; thence S29°45'29"W 192.11 feet along said southeasterly right-of-way line to its intersection with the north right-of-way line of Diamond Lake Boulevard (County Road No. 4); thence N83°49'31"W 109.11 feet to the intersection of said north right-of-way line with the northwesterly right-of-way line of the above said Jackson Street; thence N29°45'29"E 382.57 feet and N28°59'53"W 31.39 feet along said northwesterly right-of-way line to the southerly right-of-way line of Odell Street; thence parallel to and 30.00 feet southerly of the centerline of said Odell Street along the arc of a 208.73-foot radius curve to the right (the long chord of which bears S77°19'26"E 81.91 feet) 82.44 feet and S60°14'31"E 48.54 feet to the northwest corner of that property described in Instrument No. 79-10921; thence S29°45'29"W 187.15 feet along the above said southeasterly right-of-way line of Jackson Street to the point of beginning and containing 0.92 acres, more or less.

Excepting therefrom that portion of the above described parcel lying in the Southern Pacific Railroad right-of-way.

EXHIBIT 'B'*DESCRIPTION OF A SANITARY SEWER EASEMENT FOR ROSEBURG URBAN
SANITARY AUTHORITY ON A PORTION OF JACKSON STREET TO BE VACATED*

A sanitary sewer easement lying in Section 19 of Township 27 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, said easement being more particularly described as follows:

Beginning at the intersection of the northerly right-of-way line of the Southern Pacific Railroad with the northwesterly right-of-way line of Jackson Street, from which a 5/8" iron rod at the southwest corner of Instrument No. 89-19192 as recorded in the Deed Records of Douglas County bears S83°55'34"E 109.20 feet; thence N29°45'29"E 22.51 feet along said northwesterly right-of-way line to a point; thence leaving said northwesterly right-of-way line S5°10'21"E 20.99 feet to the above said northerly right-of-way of the Southern Pacific Railroad; thence N83°55'34"W 13.19 feet along said northerly right-of-way line to the point of beginning.

**UNDERGROUND RIGHT-OF-WAY EASEMENT
(CORPORATE)**

For value received, News-Review Publishing Company, the undersigned, hereinafter referred to as Grantor, does hereby grant to PACIFICORP, a corporation doing business as Pacific Power & Light Company, its successors and assigns, the Grantee, an easement and right-of-way 10 feet in width, for an underground electric distribution line of one or more conductors and all necessary or desirable appurtenances (including but not limited to the right to install conduits, surface or subsurface-mounted transformers, surface-mounted connection boxes and meter cabinets) described in *Exhibit 'B'* attached hereto and at or near the location and along the general course now located and staked out by the Grantee over, under, across and along the following described real property in Douglas County, Oregon to-wit:

That property described in Exhibit 'A' attached hereto.

Together with the right of ingress and egress over the adjacent lands of the Grantor in order to install, maintain, repair, replace, rebuild, operate and patrol the underground electric power lines and appurtenances, and to exercise all other rights herein granted.

Grantor shall have the right to use the lands subject to the above described easement and right-of-way for all purposes not inconsistent with the uses and purposes herein set forth; provided that Grantor shall not build or erect any structure upon said easement and right-of-way without the prior written consent of Grantee.

The News-Review Publishing Company

By: _____

Title: _____

Attest: _____

Title: _____

REPRESENTATIVE ACKNOWLEDGEMENT

STATE OF OREGON
County of Douglas

This instrument was acknowledged before me on the _____ day of _____, 19____, by _____ as _____ of _____.

Notary Public for the State of Oregon
My Commission Expires _____

EXHIBIT 'A'*DESCRIPTION OF A PORTION OF JACKSON STREET
TO BE VACATED BY CITY OF ROSEBURG*

A parcel of land lying in Sections 18 and 19 of Township 27 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, said parcel being more particularly described as follows:

Beginning at a 5/8" iron rod on the southeasterly right-of-way line of Jackson Street, said point being the southwest corner of that property described in Instrument No. 89-19192 as recorded in the Deed Records of Douglas County; thence S29°45'29"W 192.11 feet along said southeasterly right-of-way line to its intersection with the north right-of-way line of Diamond Lake Boulevard (County Road No. 4); thence N83°49'31"W 109.11 feet to the intersection of said north right-of-way line with the northwesterly right-of-way line of the above said Jackson Street; thence N29°45'29"E 382.57 feet and N28°59'53"W 31.39 feet along said northwesterly right-of-way line to the southerly right-of-way line of Odell Street; thence parallel to and 30.00 feet southerly of the centerline of said Odell Street along the arc of a 208.73-foot radius curve to the right (the long chord of which bears S77°19'26"E 81.91 feet) 82.44 feet and S60°14'31"E 48.54 feet to the northwest corner of that property described in Instrument No. 79-10921; thence S29°45'29"W 187.15 feet along the above said southeasterly right-of-way line of Jackson Street to the point of beginning and containing 0.92 acres, more or less.

Excepting therefrom that portion of the above described parcel lying in the Southern Pacific Railroad right-of-way.

C.S. File No. 66/1-6 i

BOOK 1555 PAGE 566

EXHIBIT 'B'*DESCRIPTION OF A POWER EASEMENT FOR PACIFIC POWER & LIGHT
ON A PORTION OF JACKSON STREET TO BE VACATED*

A power easement lying in Sections 18 and 19 of Township 27 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, said easement being more particularly described as follows:

Beginning at a 5/8" iron rod at the southwest corner of that property described in Instrument No. 89-19192 as recorded in the Deed Records of Douglas County; thence N83°55'34"W 17.94 feet along the northerly right-of-way line of the Southern Pacific Railroad; thence leaving said northerly right-of-way line N29°33'52"E 194.36 feet; thence S60°14'31"E 17.08 feet to the northwest corner of that property described in Instrument No. 79-10921; thence S29°45'29"W 187.15 feet to the point of beginning.

After recording return to:
City of Roseburg
900 SE Douglas Avenue
Roseburg, OR 97470

WATER LINE EASEMENT

BETWEEN: The City of Roseburg, an Oregon Municipal Corporation ("City")
AND: The News-Review Publishing Company ("Owner")
DATED: _____, 19____

RECITALS

- A. Owner has fee title to certain real property (Property), more particularly described in Exhibit 'A' attached hereto and hereby incorporated herein by this reference, in which City wishes to obtain an easement to install, operate, maintain, repair, construct, replace, relocate and manage a water pipeline system and associated accessories.
- B. Owner is willing to grant such easement, upon the following terms and conditions, and is willing to assume such obligations as set forth below.

AGREEMENT

Now, therefore, in consideration of the foregoing Recitals, which by this reference are incorporated herein as if set forth in full, and of the mutual covenants, conditions and obligations on the part of each party to be kept and performed, it is hereby agreed as follows:

- 1. **Required Information for Recordation.** State law requires that each instrument conveying title to property must set forth certain information on the first page of the agreement:
 - 1.1 **Consideration.** The consideration for this agreement is for value other than money, being the mutual promises set forth herein, the sufficiency of which is hereby acknowledged.
 - 1.2 **Tax Information.** Until a change is requested, all tax statements shall be sent to the fee title owner of the property at the following address:

News-Review Publishing Company
P.O. Box 1248
Roseburg, Oregon 97470

- 2. **Grant of Easement.** Owner hereby grants to City a non-exclusive Easement on and under property, more particularly described and depicted in Exhibit 'B', attached hereto and incorporated by this reference, to install, maintain repair, construct and manage a water pipeline system and associated accessories, including rights of ingress and egress.
- 3. **Duration.** The Easement shall be an in gross Easement. The Easement is intended to inure to the benefit of City and shall be recorded in the Deed Records of Douglas County, Oregon.
- 4. **Use/Limitations.** City shall have the right to use the Easement to install, construct, operate, repair, maintain, relocate and replace therein a water line piping system and associated accessories. City shall not have the right to use the Easement for any other purpose or to permit others to use the Easement for any purposes without Owner's prior written consent.

5. **Maintenance.**

5.1 Owner agrees that no part of any building or permanent structure will be placed on the Easement. Owner shall be prohibited from filling any portion of Easement with debris, earth, rocks, vegetation, or any other material and agrees to keep the Easement free of any obstructions including trees or shrubs.

5.2 Owner shall maintain Property, including easement, and allow City access to and across Property to carry out the purposes for which the Easement is granted.

5.3 City shall have the right to remove or disturb improvements located within the Easement to carry out the purposes for which this Easement was granted. In the event City so removes or disturbs such improvements, City shall replace the improvements within a reasonable time frame.

6. **Covenant.** Owner covenants that ownership and use of Property shall not interfere with the use of the Easement on the Property.

7. **Indemnification.** Owner shall indemnify and hold City, and its officers, agents and employees, harmless from and against all claims, actions, liabilities, costs, including attorney fees and other costs of defense, arising out of or in any way related to Owner's performance under this agreement, Owner's failure to strictly comply with any provision of this agreement, or any other action or failure to act by Owner or Owner's employees, agents, officers and contractors with respect to the Easement. In the event any such action or claim is brought against City, Owner shall, if City so elects and upon tender by City, defend the same at Owner's sole cost and expense, promptly satisfy any judgement adverse to City or to City and Owner, jointly, and reimburse City for any loss, cost, damage or expense, including attorney fees, suffered or incurred by City.

8. **Binding Effect.** This Easement touches, concerns and relates to the use of the Property and shall be binding upon and inure to the benefit of the parties hereto and their heirs, administrators, executors, transferees, successors, and assigns.

9. **Attorney Fees.** In the event any cause of action is instigated to enforce or interpret this Easement, the prevailing party shall be entitled to recover costs, including reasonable attorney fees incurred in the action as set by the trial court, and in the event of appeal, by the appellate court.

10. **Integration.** This Easement embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein. This Easement shall supersede all prior communications, representations or agreements, either oral or written, between the parties. This Easement shall not be amended except in writing, signed by both parties.

11. **Interpretation.** This Easement shall be governed by and interpreted in accordance with the laws of the state of Oregon. The parties to this Easement do not intend to confer on any third party any rights under this Easement.

12. **Severability.** If any term or condition of this Agreement is declared by court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Easement did not contain the particular term or condition held to be invalid.

EXHIBIT 'A'

BOOK 1555 PAGE 570

*DESCRIPTION OF A PORTION OF JACKSON STREET
TO BE VACATED BY CITY OF ROSEBURG*

A parcel of land lying in Sections 18 and 19 of Township 27 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, said parcel being more particularly described as follows:

Beginning at a 5/8" iron rod on the southeasterly right-of-way line of Jackson Street, said point being the southwest corner of that property described in Instrument No. 89-19192 as recorded in the Deed Records of Douglas County; thence S29°45'29"W 192.11 feet along said southeasterly right-of-way line to its intersection with the north right-of-way line of Diamond Lake Boulevard (County Road No. 4); thence N83°49'31"W 109.11 feet to the intersection of said north right-of-way line with the northwesterly right-of-way line of the above said Jackson Street; thence N29°45'29"E 382.57 feet and N28°59'53"W 31.39 feet along said northwesterly right-of-way line to the southerly right-of-way line of Odell Street; thence parallel to and 30.00 feet southerly of the centerline of said Odell Street along the arc of a 208.73-foot radius curve to the right (the long chord of which bears S77°19'26"E 81.91 feet) 82.44 feet and S60°14'31"E 48.54 feet to the northwest corner of that property described in Instrument No. 79-10921; thence S29°45'29"W 187.15 feet along the above said southeasterly right-of-way line of Jackson Street to the point of beginning and containing 0.92 acres, more or less.

Excepting therefrom that portion of the above described parcel lying in the Southern Pacific Railroad right-of-way.

C.S. File No. 66/1-6 N

EXHIBIT 'B'

BOOK 1555 PAGE 571

*DESCRIPTION OF A WATERLINE EASEMENT FOR THE CITY OF ROSEBURG
ON A PORTION OF JACKSON STREET TO BE VACATED*

A waterline easement lying in Sections 18 and 19 of Township 27 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, said easement being more particularly described as follows:

Beginning at a 5/8" iron rod at the southwest corner of that property described in Instrument No. 89-19192 as recorded in the Deed Records of Douglas County; thence N83°55'34"W 17.94 feet along the northerly right-of-way line of the Southern Pacific Railroad; thence leaving said northerly right-of-way line N29°29'48"E 46.11 feet; thence N62°08'44"W 78.74 feet; thence N27°51'16"E 15.00 feet; thence S62°08'44"E 79.18 feet; thence N29°35'26"E 133.24 feet; thence S60°14'31"E 17.08 feet to the northwest corner of that property described in Instrument No. 79-10921; thence S29°45'29"W 187.15 feet to the point of beginning.

Also, beginning at the intersection of the northerly right-of-way line of the Southern Pacific Railroad with the northwesterly right-of-way line of Jackson Street, from which a 5/8" iron rod at the southwest corner of Instrument No. 89-19192 as recorded in the Deed Records of Douglas County bears S83°55'34"E 109.20 feet; thence N29°45'29"E 22.51 feet along said northwesterly right-of-way line to a point; thence leaving said northwesterly right-of-way line S5°10'21"E 20.99 feet to the above said northerly right-of-way of the Southern Pacific Railroad; thence N83°55'34"W 13.19 feet along said northerly right-of-way line to the point of beginning.

RECORDED JULY 30, 1998