

# ASSIGNMENT

EXHIBIT A

RIDER TO BE ATTACHED TO AGREEMENT

L. D. No. M. \_\_\_\_\_ Div. No. \_\_\_\_\_ Audit No. \_\_\_\_\_ C. D. No. \_\_\_\_\_

Between **PORTLAND TRACTION COMPANY, an Oregon corporation, and PUBLISHERS' PAPER CO., a Delaware corporation**

Prior Assignments—Dates and Names of Assignees  
**none**

Covering construction, maintenance and operation of 14" water pipe line on Portland Traction Company's right of way near Lents Junction, Portland, Oregon  
Location **in location shown on print Exhibit A attached to said agreement.**

Dated \_\_\_\_\_ Effective Date \_\_\_\_\_ Expiration (Original) \_\_\_\_\_

Expiration (by latest extension) \_\_\_\_\_

Supplements, including extension riders—Dates

**None**

**THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between PUBLISHERS' PAPER CO., a Delaware corporation**

(hereinafter called "Assignor"), party of the first part,

**CITY OF PORTLAND, a municipal corporation of the state of Oregon**

(hereinafter called "Assignee"), party of the second part, and

**PORTLAND TRACTION COMPANY**

, a corporation of the State

of **Oregon**

(hereinafter called "Company"), party of the third part,

**WITNESSETH:**

It is mutually covenanted and agreed by and between the parties hereto as follows:

**Section 1. The Assignor, for a valuable consideration, does hereby sell, assign, transfer and set over to the Assignee all of the Assignor's right, title and interest in and to the agreement above described.**

**Section 2. The Assignee hereby accepts the above assignment and agrees to be bound by and to perform and observe fully and faithfully all of the covenants, stipulations and conditions contained in said agreement to be performed and observed by the Assignor and assumes all liabilities mentioned in said agreement to be assumed by the Assignor.**

**Section 3. The Company, in consideration of the covenants and agreements of the Assignor and the Assignee herein contained, gives its consent to the aforesaid assignment; PROVIDED, however, that such consent shall not be deemed or construed to authorize any further assignment of said agreement, whether voluntary, by operation of law, or otherwise, without the consent in writing of the Company thereto first had and obtained; and PROVIDED, FURTHER, that, as between the Assignor and the Company, neither said assignment nor anything herein contained shall be construed as releasing the Assignor, in the event of default by the Assignee, from the obligation to perform all of the covenants contained in said agreement to be performed by the Assignor, or from any of the liabilities assumed by the Assignor under said agreement.**

FORM 2210

Section 4. This agreement shall be considered as taking effect as of the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

~~Witness:~~ Attest:

*Robert D. Smith*

PUBLISHERS' PAPER CO.  
By *J. Palmer*  
Assignor.

~~Witness:~~ Attest:

\_\_\_\_\_

CITY OF PORTLAND  
By \_\_\_\_\_  
Assignee.

~~Witness:~~

\_\_\_\_\_

PORTLAND TRACTION COMPANY  
By *J. B. ...*  
President

## PIPE LINE CROSSING AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of February, 1967, by and between PORTLAND TRACTION COMPANY, an Oregon corporation (hereinafter called the "Railroad Company"), and PUBLISHERS' PAPER CO., a Delaware corporation (hereinafter called the "Licensee"),

## W I T N E S S E T H :

WHEREAS, the Licensee desires to construct and thereafter to maintain and operate a fourteen inch (14") water pipe line (hereinafter called the "Pipe Line"), on and across the right of way and under the track of the Railroad Company at Lents Junction, Portland, Multnomah County, Oregon, at railroad engineering station 517+68, in the location indicated in red and in accordance with the specifications stated and detailed upon the print hereto attached, dated January 4, 1967, which print is hereby made a part of this agreement and marked "Exhibit A."

The parties hereto agree as follows:

1. The Railroad Company, for and in consideration of the payment and covenants hereinafter mentioned to be made, kept and performed by said Licensee, does hereby license and permit said Licensee to construct and thereafter, during the term hereof, to maintain and operate the Pipe Line in the location aforesaid.
2. This agreement shall be effective from and after the 20th day of October, 1966, and shall continue in full force and effect until terminated as hereinafter provided.
3. The Licensee shall and will pay the Railroad Company in consideration for the license and permission hereby granted the sum of Twenty-five Dollars (\$25.00).
4. The Licensee shall bear the entire expense incurred in connection with the construction, maintenance, renewal and removal of the Pipe Line, including all expense incurred by the Railroad Company in connection therewith for supervision, inspection, or otherwise; and all work performed and materials used in connection therewith within the limits of the right of way of the Railroad Company shall be done under the direction of and be satisfactory to the Chief Engineer of the Railroad Company or his authorized representative.

Direction, supervision or approval of said work by the Railroad Company or its Chief Engineer or his authorized representative shall not operate to relieve the Licensee, in whole or in part, from responsibility for the safe and adequate construction, maintenance and operation of the Pipe Line in accordance with this agreement.

5. Nothing shall be done or suffered to be done by the Licensee at any time that would in any manner impair the usefulness or safety of the track or tracks of the Railroad Company, or of any other tracks that hereafter may be constructed within the limits of said right of way. The Railroad Company reserves and shall have the right at any and all times to make such changes in its existing track or tracks and structures, or in the present standards thereof, and to construct, maintain and operate such additional tracks and structures on said right of way in the vicinity of the Pipe Line, and over and across the same, as from time to time it may elect and the Licensee shall bear the expense of making such modifications or changes in the location of the Pipe Line as may be required by the Railroad Company in connection with such changes in said track or tracks and structures, or in the present standards thereof, and such additional tracks and structures. All the terms, conditions and stipulations herein expressed with reference to the maintenance, repair and renewal of the Pipe Line in the location hereinbefore described, shall apply to the Pipe Line as relocated, changed or modified within the contemplation of this section.

6. The Pipe Line and all parts thereof within and outside of the limits of the right of way and premises of the Railroad Company shall be constructed and at all times maintained, repaired, renewed and operated in such manner as to cause no interference whatsoever with the constant, continuous, and uninterrupted use of the tracks, property and premises of the Railroad Company, both as regards operation, maintenance, repairs and renewals, or new construction by the Railroad Company.

7. Prior to the commencement of any work in connection with such Pipe Line (whether of construction, maintenance, repair, renewal, modification, relocation, reconstruction or removal), the Licensee shall submit to the Railroad Company plans setting out the method and manner of handling the work and shall not proceed with the work until such plans have been approved by the Chief Engineer of the Railroad Company and then only under the supervision of said

Chief Engineer or his representative. The Railroad Company shall have the right, if it so elects, to provide such support as it may deem necessary for the safety of its track or tracks during the time such work is being done, and, in the event the Railroad Company provides such support, the Licensee shall pay to the Railroad Company, within fifteen (15) days after bills shall have been rendered therefor, all expense incurred by the Railroad Company in connection therewith, which said expense shall include all assignable costs plus ten per cent (10%) to cover elements of expense not capable of exact ascertainment.

8. In the event any work upon or in connection with said Pipe Line or its appurtenances, to be done upon or adjacent to the tracks and property of the Railroad Company should be let to a contractor by Licensee, such work shall not be begun until such contractor shall have first entered into an agreement with the Railroad Company which operates on said property, satisfactory to said Railroad Company and indemnifying the Railroad Company from and against all claims, liability, cost and expense growing out of the performance of the work to be done by such contractor.

Such contractor shall furnish, at the option of and without expense to the Railroad Company, a reliable surety bond, in an amount and in a form satisfactory to said Railroad Company, guaranteeing the faithful performance of all the terms, covenants and conditions contained in said agreement, and a certified copy of a policy of Public Liability and Property Damage Insurance, within limits specified by, and in a form satisfactory to, said Railroad Company, covering the contractual liability assumed by Contractor in said agreement to be entered into with said Railroad Company by such contractor.

9. The Licensee agrees to shore and crib all excavation and/or trenching for the installation and maintenance of said Pipe Line on Railroad Company property in sufficient strength to withstand any vibration caused by operations of the Railroad Company over trackage in the vicinity of such excavation or trenching, to the satisfaction of the Railroad Company, and in the event such work is performed for the Licensee by any contractor or subcontractor, the Licensee shall require such contractor or subcontractor to perform such work in the manner as above provided.

10. The Pipe Line shall be installed in all respects in accordance with Union Pacific Railroad Company's C.S. 1029, a copy of which has been made available to the Licensee and of which the Licensee acknowledges receipt.

11. The Licensee shall indemnify and hold harmless the Railroad Company from and against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature which may result from any injury to or the death of any person whomsoever, or from the loss of or damage to property of any kind or nature, including damage to the tracks, equipment or other property of the Railroad Company, when such injury, death, loss or damage is due to the existence of the Pipe Line, or to the construction, maintenance, operation, repair or renewal thereof, or to the contents therein or therefrom. The Licensee does hereby release the Railroad Company from all liability for damages on account of injury to the Pipe Line from any cause whatsoever.

12. Should the Pipe Line be permitted to be in bad order or condition, then the Railroad Company may repair or contract for the repair of said Pipe Line at the cost and expense of the Licensee and the Licensee will pay or reimburse the Railroad Company for all costs and charges incurred or necessitated by such repair, which said action may be taken by the Railroad Company without prejudice to or impairing any right of action for damages or otherwise that the Railroad Company may have against the Licensee.

13. Should Licensee, its successors or assigns, at any time abandon the use of the Pipe Line, or any part thereof, or fail at any time to use the same for the purpose contemplated herein, for a continuous period of one (1) year, the license and permission hereby given shall cease to the extent of the use so abandoned or discontinued, and the Railroad Company shall at once have the right in addition to, but not in qualification of, the rights hereinabove reserved, to resume exclusive possession of said property or the part thereof the use of which is so discontinued or abandoned and this license shall be deemed revoked and terminated without further action or notice by the Railroad Company.

Within fifteen (15) days after the termination of this agreement, howsoever, the Licensee shall remove all property of the Licensee herein provided for from the right of way of the Railroad Company and shall restore, to the satisfaction of the Railroad Company, the said right of way to as good condition as it was in at the time of the construction of the Pipe Line; and if the Licensee fails so to do, the Railroad Company may do such work of removal and restoration at the cost and expense of the Licensee, and, in the event the Railroad Company performs such work, the Licensee shall pay to the Railroad Company, within fifteen (15) days after bills shall

have been rendered therefor, all expense incurred by the Railroad Company in connection therewith, which said expense shall include all assignable costs plus ten per cent (10%) to cover elements of expense not capable of exact ascertainment. In the event of the removal by the Railroad Company of the property of the Licensee and of the restoration of said right of way as herein provided, the Railroad Company shall in no manner be liable to the Licensee for any damage sustained by the Licensee for or on account thereof, and such removal and restoration shall in no manner prejudice or impair any right of action for damages or otherwise that the Railroad Company may have against the Licensee.

14. The waiver by the Railroad Company of the breach of any condition, covenant or agreement herein contained, to be kept and performed by the Licensee, shall in no way impair the right of the Railroad Company to avail itself of any subsequent breach thereof.

15. The Licensee shall not assign this agreement or any of the rights hereunder without the written consent of the Railroad Company.

16. This agreement shall be binding upon and inure to the benefit of the Railroad Company, its successors, assigns and affiliated companies, the Licensee and the successors and assigns of the Licensee. The protective and indemnifying provisions hereof shall also inure to the benefit of any other railroad company or companies or other persons or corporations lawfully using or occupying the tracks or right of way of the Railroad Company.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in duplicate the day and year first above written.

PORTLAND TRACTION COMPANY

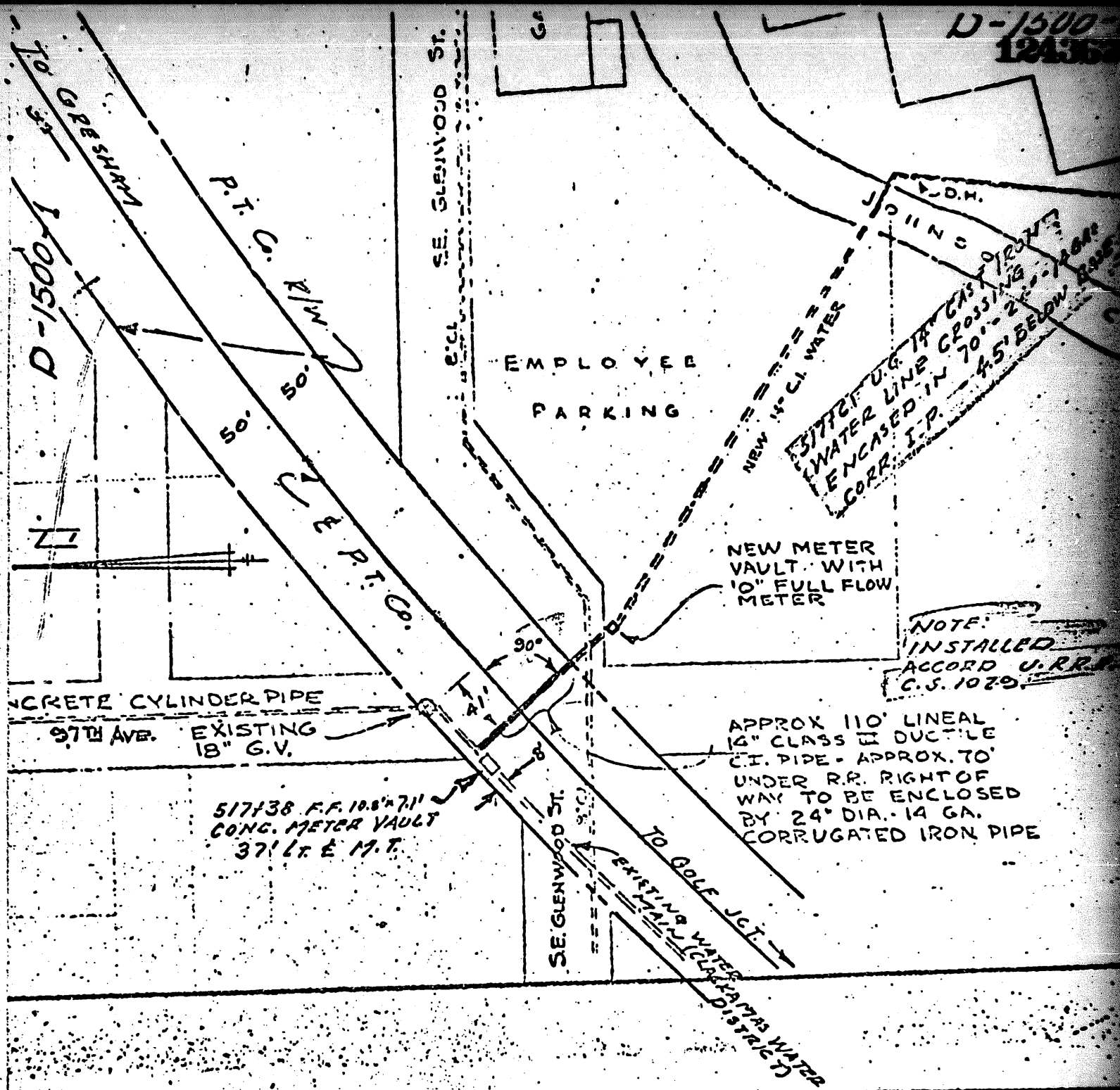
By [Signature]  
President

PUBLISHERS' PAPER CO.

By [Signature]

Attest:  
[Signature]  
Secretary

D-1500-1  
12436



NOTE:  
INSTALLED  
ACCORD U.R.R.  
C.S. 1079

517138 F.F. 10.8" x 7.1"  
CONG. METER VAULT  
37' LT. E. M.T.

**EXHIBIT "A"**  
**PORTLAND TRACTION COMPANY**

**PORTLAND, OREGON**  
**(SPRINGWATER DIVISION)**

To accompany agreement with Dwyer Lumber & Plywood Company - Division of Publishers' Paper Company, covering 14-inch water line crossing.

**\* LEGEND \***

Water line crossing shown - - - - -  
Divn. Engr. Off. Albina, Oregon  
Scale 1" = 100' Jan. 4, 1967



# ORDINANCE No. 124367

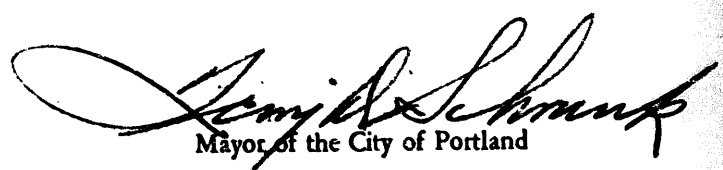
An Ordinance authorizing execution of an assignment of a pipeline crossing agreement resulting from various transfers under Ordinance No. 123315 passed by the Council September 28, 1966, and declaring an emergency.

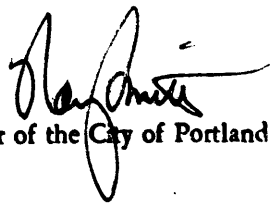
The City of Portland ordains:

Section 1. The Council finds that Ordinance No. 123315 passed by the Council September 28, 1966, authorized purchase from Publishers' Paper Company of a water pipeline on certain terms and conditions; that said pipeline was installed for a portion of its length under the railroad right of way of Portland Traction Company; that all the transactions authorized by said prior ordinance are ready for completion but the pipeline crossing agreement between Portland Traction Company and Publishers' Paper Company contain certain covenants and agreements binding both parties to said agreement; that pursuant to said Ordinance No. 123315, said pipeline crossing agreement is to be assigned to the City of Portland; that as assignee the city would be bound by said covenants and agreements and the form of assignment provides for execution on behalf of the city to evidence such legal relationship and the assumption by the city of the covenants and agreements contained in the pipeline crossing agreement; now, therefore, the Mayor hereby is authorized to execute and the Auditor to attest on behalf of the city the assignment, a copy of which is attached hereto, marked Exhibit "A," and by this reference made a part hereof, which assignment refers to the pipeline crossing agreement, a copy of which is attached hereto, marked Exhibit "B," and hereby made a part of this ordinance, and the Auditor hereby is instructed to deliver the executed copies of said assignment as directed by the Office of the City Attorney, upon completion of the transaction set forth by Ordinance No. 123315.

Section 2. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland in this: In order that there may be no delay in the completion of the transaction heretofore authorized and completion of the purchase heretofore directed; therefore, an emergency hereby is declared to exist and this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, **APR 6 - 1967**

  
Mayor of the City of Portland

Attest:  
  
Auditor of the City of Portland

Calendar No. **1367**

**ORDINANCE No. 124367**

**Title**

An Ordinance authorizing execution of an assignment of a pipeline crossing agreement resulting from various transfers under Ordinance No. 123315 passed by the Council September 28, 1966, and declaring an emergency.

| THE COMMISSIONERS VOTED AS FOLLOWS: |      |      |
|-------------------------------------|------|------|
|                                     | Yeas | Nays |
| Bowes                               | /    |      |
| Earl                                | /    |      |
| Grayson                             | /    |      |
| Ivancie                             | /    |      |
| Schrunk                             | /    |      |

| FOUR-FIFTHS CALENDAR |                    |
|----------------------|--------------------|
| Bowes                |                    |
| Earl                 | <i>[Signature]</i> |
| Grayson              | <i>[Signature]</i> |
| Ivancie              | <i>[Signature]</i> |
| Schrunk              | <i>[Signature]</i> |

|                      |
|----------------------|
| <b>INTRODUCED BY</b> |
| Commissioner Grayson |

|                    |
|--------------------|
| <b>DRAWN BY</b>    |
| JEH/fg             |
| Date April 5, 1967 |

|                                  |
|----------------------------------|
| <b>NOTED BY THE COMMISSIONER</b> |
| Affairs                          |
| Finance and Administration       |
| Safety                           |
| Utilities <i>[Signature]</i>     |
| Works                            |

|                                  |
|----------------------------------|
| City Attorney <i>[Signature]</i> |
|----------------------------------|

|                               |
|-------------------------------|
| <b>NOTED FOR CITY AUDITOR</b> |
| R. C. H.                      |
| <i>[Signature]</i>            |

|                       |
|-----------------------|
| <b>APPROVED</b>       |
| Date                  |
| By <i>[Signature]</i> |
| City Engineer         |
| Date                  |
| By                    |

Filed APR 4 1967

**RAY SMITH**  
Auditor of the CITY OF PORTLAND

By *[Signature]*  
Deputy