

RESOLUTION NO. 5474

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Kenneth R. Spann
Rozanne E. Spann

Purpose

The described easement is an approximately 800 square foot easement for a diversion structure on the Santiam-Albany Canal. The City plans to construct a diversion structure in this location that will divert 20 cubic feet per second of water from the Canal to Cox Creek.

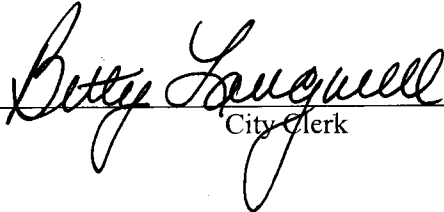
NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept this easement.

DATED AND EFFECTIVE THIS 22 DAY OF August 2007.



Mayor

ATTEST:



City Clerk

LINN COUNTY
Recording Cover Sheet
All Transactions, ORS: 205.234

LINN COUNTY, OREGON **2007-21468**
E-UT
Cnt=1 Stn=1 COUNTER **09/07/2007 01:18:24 PM**
\$30.00 \$11.00 \$10.00 **\$51.00**



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:

N/A Government Agency _____

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

EASEMENT FOR PUBLIC UTILITIES _____

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

Kenneth R. Spann and Rozanne E. Spann _____

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

\$2,999.00 _____

EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 11 day of August, 2007, by and between Kenneth R. Spann, Rozanne E. Spann, 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 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 strip of land as described in Exhibit A and as shown in Exhibit B and Exhibit C.
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 \$2,999.00, 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. The Grantor shall not construct any permanent structures on this easement.

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

GRANTORS:

Kenneth R. Spann
Kenneth R. Spann

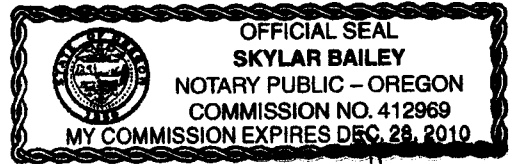
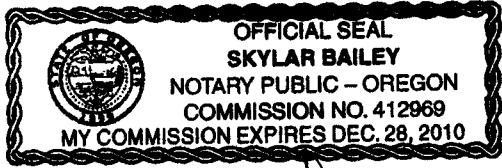
Rozanne E. Spann
Rozanne E. Spann

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

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

The foregoing instrument was acknowledged before me this 11 day of August, 2007, by **Kenneth R. Spann** as his/her voluntary act and deed.

The foregoing instrument was acknowledged before me this 11 day of August, 2007, by **Rozanne E. Spann** as his/her voluntary act and deed.



Skylar Bailey
Notary Public for Oregon
My Commission Expires: 12/28/2010

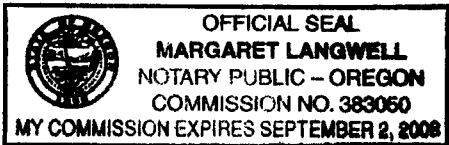
Skylar Bailey
Notary Public for Oregon
My Commission Expires: 12/28/2010

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 5474, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 28 day of August 2007.

Wes Hare
City Manager



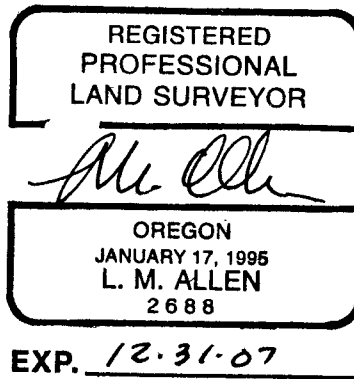
ATTEST:
Margaret Langwell
City Clerk

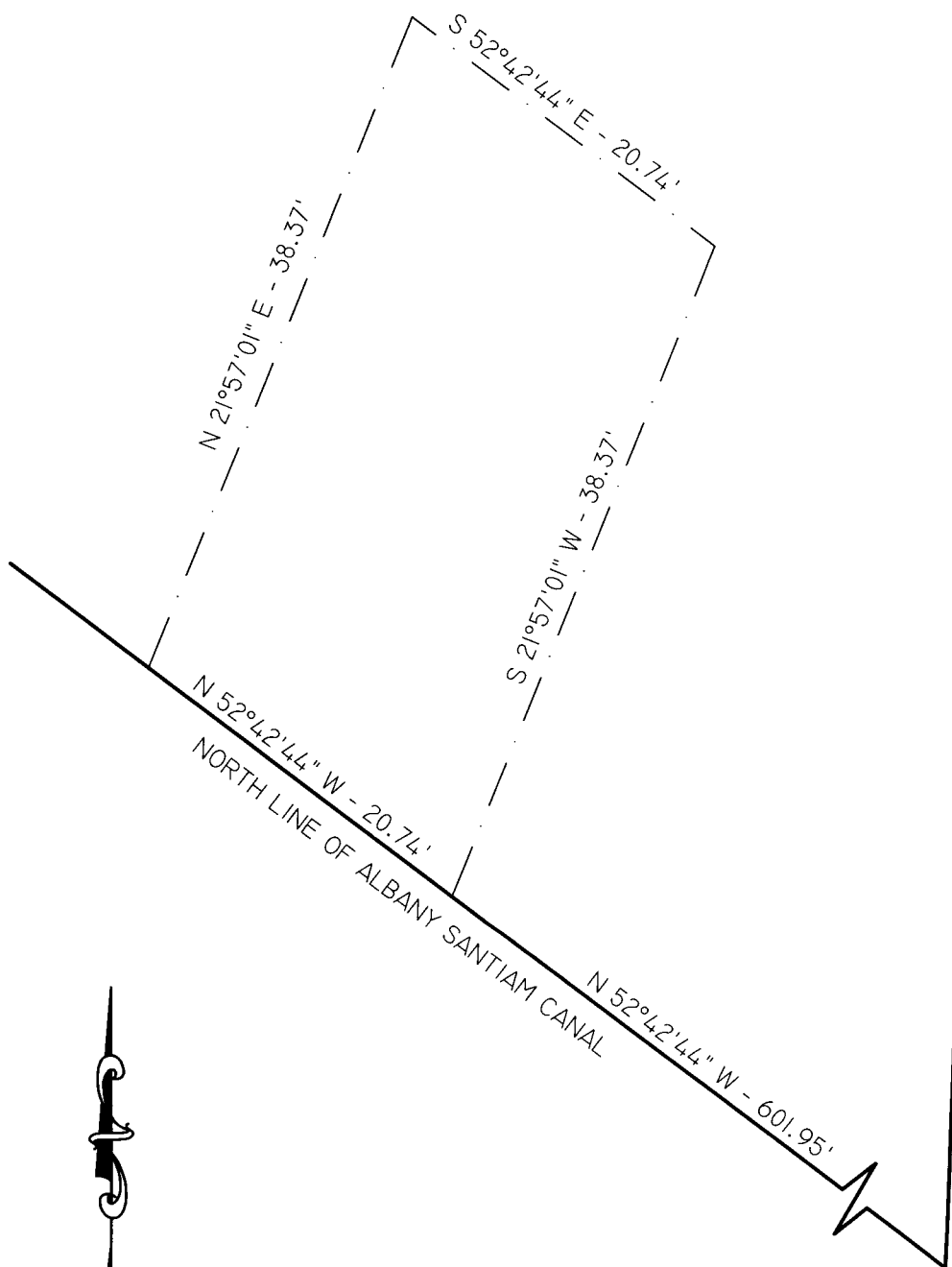
EXHIBIT "A"

A PORTION OF THAT CERTAIN TRACT OF LAND AS DESCRIBED IN MF VOLUME 471, AT PAGE 481 IN THE OFFICIAL DEED RECORDS OF LINN COUNTY, OREGON, SAID PORTION BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF THE "ALBANY—SANTIAM CANAL" AS THE SAME IS SHOWN LOCATED IN THE RECORDS OF THE LINN COUNTY SURVEYOR'S OFFICE AS CS#22239, SAID POINT BEING N 52°42'44" W AND DISTANT 601.95 FEET FROM THE POINT OF INTERSECTION OF THE EAST LINE OF SAID DEEDED TRACT WITH THE NORTH LINE OF SAID CANAL, THENCE N 52°42'44" W ON SAID NORTH LINE A DISTANCE OF 20.74 FEET, THENCE LEAVING SAID NORTH LINE N 21°57'01" E A DISTANCE OF 38.37 FEET, THENCE S 52°42'44" E PARALLEL WITH THE NORTH LINE OF SAID CANAL A DISTANCE OF 20.74 FEET, THENCE S 21°57'01" W A DISTANCE OF 38.37 FEET TO THE POINT OF BEGINNING.

END OF DESCRIPTION.





EAST LINE OF
MF VOL. 471,
PAGE 481.



SCALE: 1"= 10'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

L. M. Allen

OREGON
JANUARY 17, 1995
L. M. ALLEN
2688

RENEWAL 12/31/2007



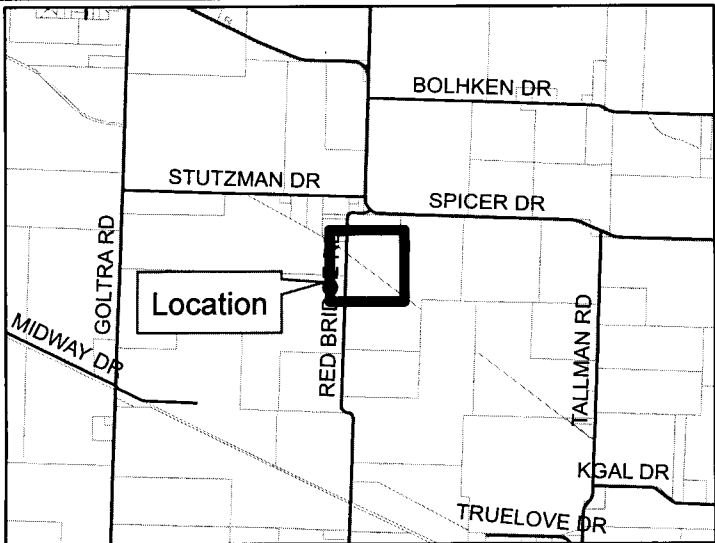
PacWest Engineering
1530 Ninth Avenue SE
Albany, OR 97321
Phone (541) 926-7634
Fax (541) 926-7539

DWG: 06-10Cox.DWG
DATE: 07/13/07
PROJECT: 06-010

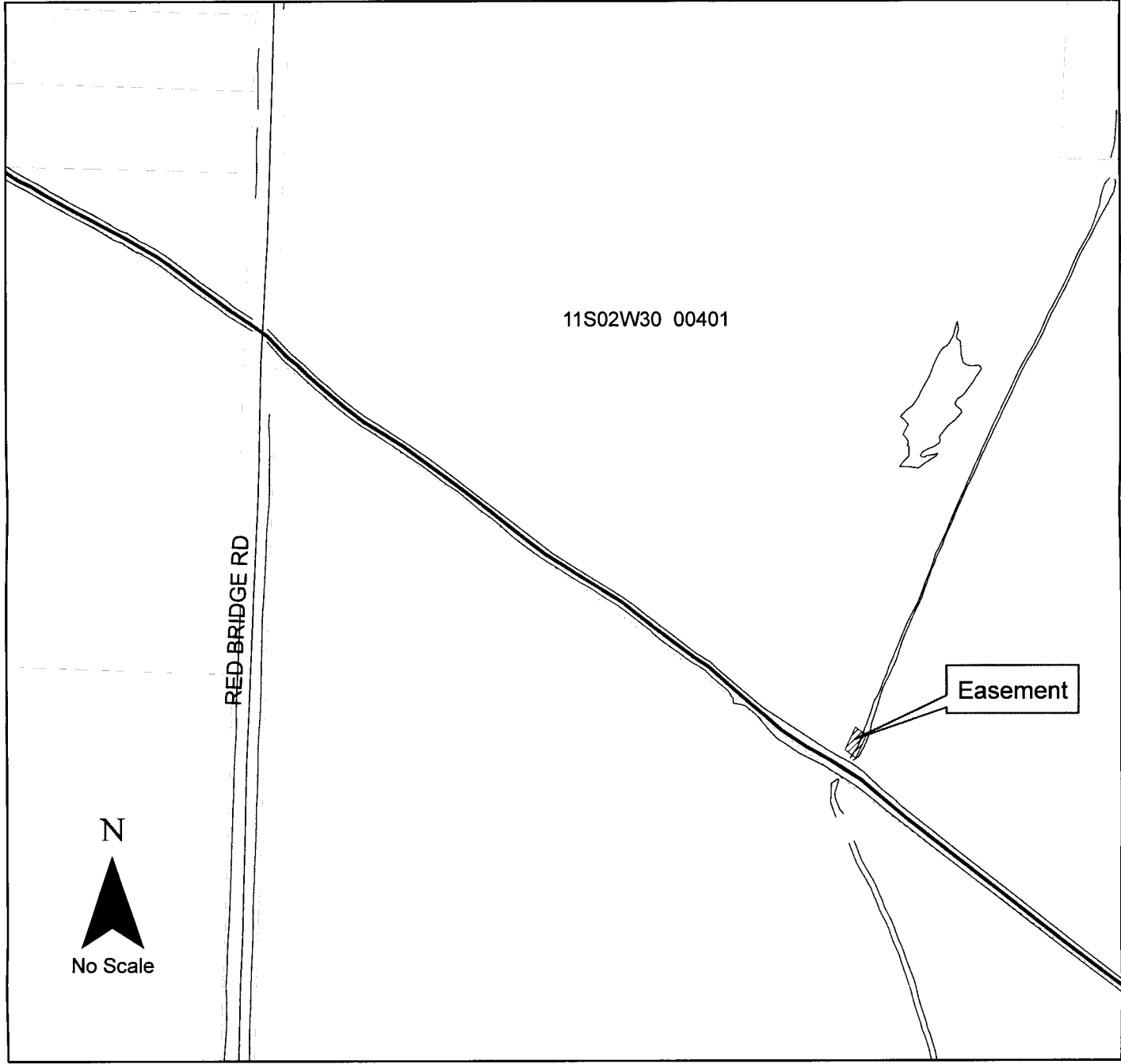
EXHIBIT C

11S02W30 00401

Approximately 800 square foot easement
for a canal diversion structure.



Geographic Information Services



Resolution No. 5474

Recorded Document Recorder File No. 4970