

RESOLUTION NO. 5821

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Purpose

WILLIAM S. & KATHRYN A. MCKINLEY

A variable width access easement needed for the development of Fabian Estates Subdivision.


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

DATED AND EFFECTIVE THIS 12TH DAY OF AUGUST 2009.



Mayor

ATTEST:



Betty Lugmell
City Clerk

STATE OF OREGON)
) ss.
County of Linn)

The foregoing instrument was acknowledged before me this 1st day of May, 2009, by Kathryn A. McKinley as his voluntary act and deed.



Jill Roles
NOTARY PUBLIC FOR OREGON
My Commission Expires: 4-18-2012

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 5321, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 14 day of August, 2009.

Wes Hare
City Manager

ATTEST:
Betty Longwell
City Clerk

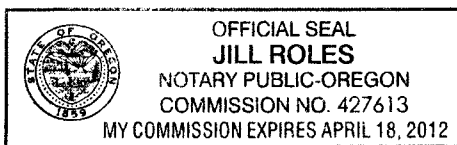
DAVENPORT:

Gary Davenport
Gary Davenport

Patricia Davenport
Patricia Davenport

STATE OF OREGON)
) ss.
County of Linn)

The foregoing instrument was acknowledged before me this 31st day of July, 2009, by Gary Davenport and Patricia Davenport, husband and wife, as their voluntary act and deed.



Jill Roles
NOTARY PUBLIC FOR OREGON
My Commission Expires: 4-18-2012

Exhibit "A"
(Access Easement)

A tract of land lying in the Northwest 1/4 of Section 1, Township 11 South, Range 4 West, Willamette Meridian, Benton County Oregon, said tract being a portion of that property conveyed to William S. McKinley and Kathryn A. McKinley by deed recorded as M-178917-94, Benton County Deed Records, and being more particularly described as follows:

Beginning at a point on the Southeast right-of-way line of West Thornton Lake Drive, said point being the most northerly corner of said McKinley tract; thence 29.91 feet on the arc of a 266.48 foot radius curve to the left (chord bears South 69°36'16" West 29.89 feet); thence 13.82 feet on the arc of a 20.00 foot radius non-tangent curve to the right (chord bears South 34°40'04" West 13.55 feet); thence South 54°28'02" West 63.38 feet; thence 97.70 feet on the arc of a 107.44 foot radius curve to the left (chord bears South 28°25'02" West 94.37 feet); thence South 02°22'01" West 67.97 feet to the west line of said McKinley tract; thence on said west line, 28.36 feet on the arc of a 130.00 foot radius non-tangent curve to the right (chord bears South 29°38'19" East 28.30 feet); thence leaving said west line, North 02°22'01" East 91.97 feet; thence 101.27 feet on the arc of a 92.44 foot radius curve to the right (chord bears North 33°45'04" East 96.28 feet); thence North 65°08'07" East 70.20 feet to the east line of said McKinley tract; thence on said east line North 00°04'03" East, a distance of 32.44 feet to the point of beginning.

The bearings used for this description were based on County Survey No. 8784, as filed in the office of the Benton County Surveyor.

END OF DESCRIPTION

April 21, 2009
EXHIBIT "A"
ACCESS EASEMENT
(06-63-E) JSM:nm
File: nm\shared\legals\06-63-e access easement.doc

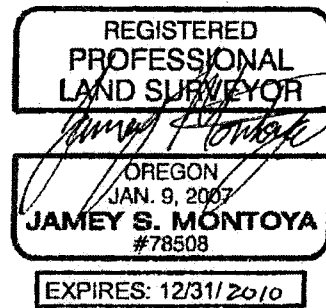
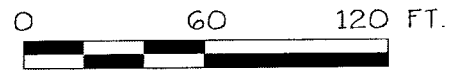
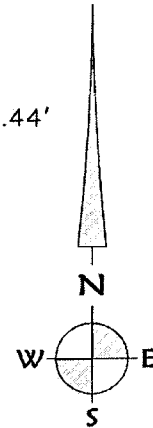
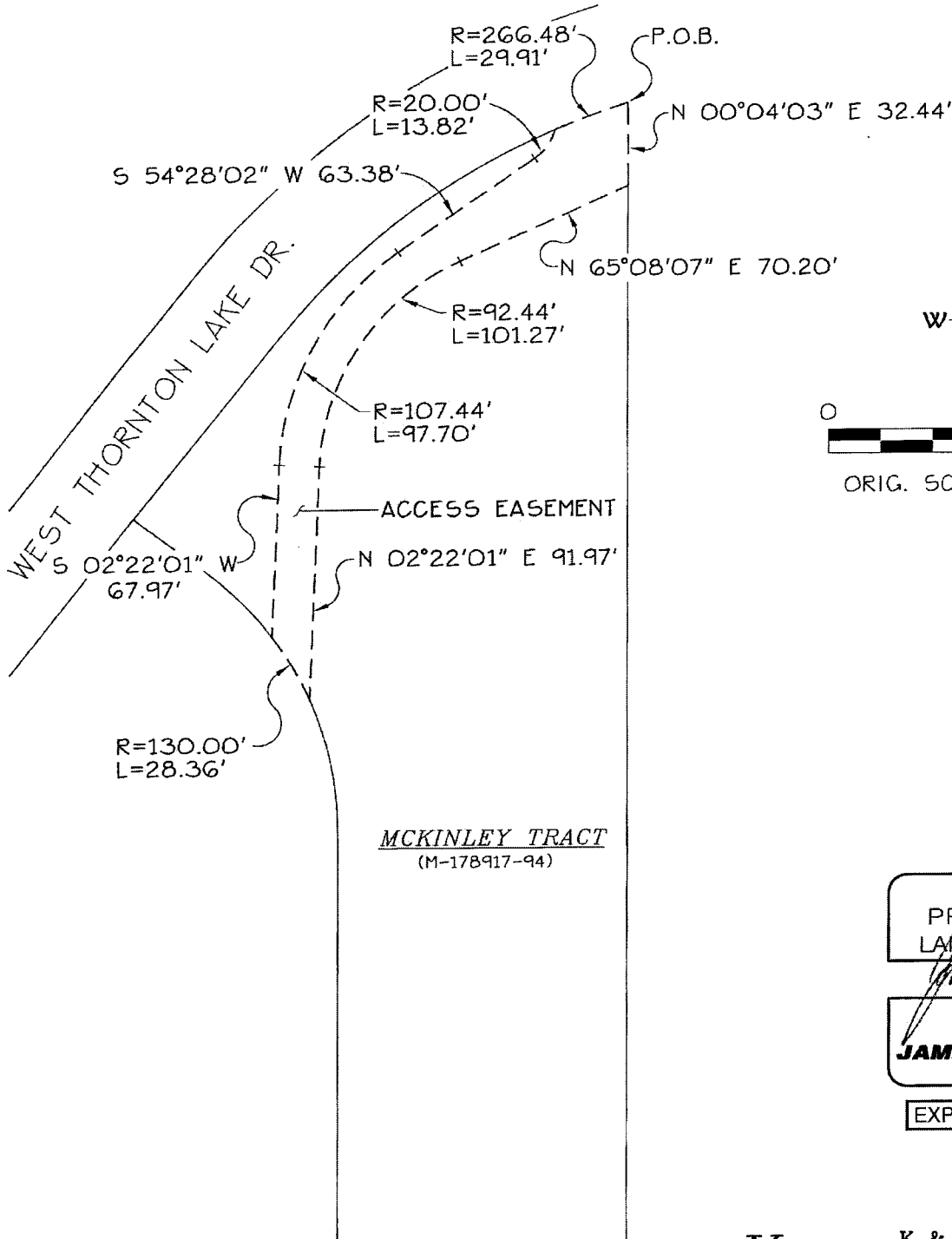


EXHIBIT "B"
EASEMENT

LOCATED IN
NW 1/4 SEC. 1, T. 11 S., R. 4 W., W.M.
CITY OF ALBANY, BENTON COUNTY, OREGON
APRIL 20, 2009



ORIG. SCALE: 1" = 60'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Jamey S. Montoya
OREGON
JAN. 9, 2007
JAMEY S. MONTOYA
#78508

EXPIRES: 12/31/2010

Date: 4/21/2009 Time: 14:40
Scale: 1=60
File: dwg\2006\06-63-f\easeex.dwg (Jamey M)



K & D ENGINEERING, Inc.
276 N.W. Hickory Street P.O. Box 725
Albany, Oregon 97321
(541) 928-2583

EXHIBIT C

(RECONFIGURED PROPERTY A)

A tract of land lying in the Northwest $\frac{1}{4}$ of Section 1, township 11 South, Range 4 West, Willamette Meridian, Benton County, Oregon, said tract being that property described as Parcel IV of that deed conveying property to Rainwater Orchard, LLC and recorded as M-280441-00, Benton County Deed Records.

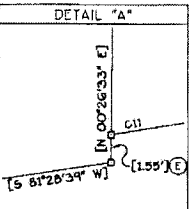
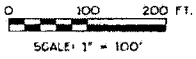
EXCEPTING THEREFROM a portion of said parcel IV that is more particularly described as follows: Beginning at a point on the east line of said Parcel IV that is 589.95 feet North $82^{\circ}37'04''$ East along the claim line and 432.19 feet South $00^{\circ}26'33''$ West of the South Southwest corner of the John Q. Thornton Donation land Claim 37, Township 11 South, range 4 West, Willamette Meridian, Benton County, Oregon, said point being the southerly terminus of the centerline described in said Parcel IV; thence South $00^{\circ}26'33''$ West 34.37 feet to a point on the southerly boundary of said Parcel IV; thence South $61^{\circ}13'57''$ West on said southerly boundary 47.13 feet to appoint on the westerly boundary thereof; thence North $28^{\circ}46'03''$ West on said westerly boundary 177.70 feet to a 5/8 inch iron rod; thence continuing on said westerly boundary 209.06 feet on the arc of a 530.00 foot radius curve to the right (chord Bears north $17^{\circ}28'03''$ West 207.70 feet); thence leaving said westerly boundary North $83^{\circ}49'57''$ East 30.00 feet to a 5/8 inch iron rod on the centerline of said parcel IV; thence on said centerline, 54.41 feet on the arc of a 500.00 foot radius curve to the right (chord bears north $03^{\circ}03'00''$ West 54.39 feet) to a 5/8" iron rod; thence continuing on said centerline, North $00^{\circ}04'03''$ East 56.33 feet to a 5/8 inch iron rod; thence leaving said centerline South $89^{\circ}55'57''$ East 30.00 feet to a 5/8 inch iron rod on the easterly boundary of said Parcel IV; thence South $00^{\circ}04'03''$ West on said easterly boundary 56.33 feet to a 5/8 inch iron rod; thence continuing on said easterly boundary 236.54 feet on the arc of a 470.00 foot radius curve to the left (chord bears South $14^{\circ}21'00''$ East 234.05 feet); thence South $28^{\circ}46'03''$ East 117.70 feet; thence North $61^{\circ}13'57''$ East 20.67 feet; thence leaving said easterly boundary South $00^{\circ}26'33''$ West 34.37 feet to the **Point of Beginning**.

APPROVAL:

THIS SURVEY APPROVED THIS _____ DAY OF _____, 2009

CITY OF ALBANY COMMUNITY DEVELOPMENT DIRECTOR

N 36°00'59" E 30.00'
(N 37°49'08" E 30.00')
N 38°00'59" E 30.00'
(N 37°49'08" E 30.00')



LINE	BEARING	DISTANCE
L1	N51°59'01"W	33.34
(L1)(X)	N52°10'52"W	33.41
L2	N51°59'01"W	33.41
(L2)(X)	N52°10'52"W	33.48
L3	N51°59'01"W	33.48
(L3)(X)	N52°10'52"W	33.41
L4	N28°46'03"W	117.70
(L4)(X)	N28°46'03"W	117.70
L5	N28°46'03"W	147.70
(L5)(X)	N28°46'03"W	147.70
L6	N28°46'03"W	177.70
(L6)(X)	N28°46'03"W	177.70
L7	S61°13'57"W	20.67
(L7)(X)	S61°13'57"W	20.67
L8	S61°13'57"W	33.90
(L8)(X)	S61°13'57"W	33.90
L9	S61°13'57"W	47.13
(L9)(X)	S61°13'57"W	47.12
L10	N00°26'33"E	68.74
(L10)(X)	N00°26'33"E	68.74
L11	N61°13'57"E	87.15
(L11)(X)	N61°13'57"E	87.15
L12	N61°13'57"E	87.15
(L12)(X)	N61°13'57"E	87.15
L13	N61°13'57"E	87.15
(L13)(X)	N61°13'57"E	87.15

PROPERTY "A"
(PARCEL IV OF M-280441-00)
ORIGINAL AREA: 1.36 ACRES
ADJUSTED AREA: (-) 0.60 ACRES
NEW AREA: 0.76 ACRES

PROPERTY "B"
(PARCEL I OF M-280441-00)
ORIGINAL AREA: 2.60 ACRES
ADJUSTED AREA: (-) 0.60 ACRES
NEW AREA: 3.20 ACRES

PROPERTY LINE ADJUSTMENT
FOR
RAINWATER ORCHARD, LLC
LOCATED IN
J. Q. THORNTON D.L.C. No. 37
AND
A.M. RAINWATER D.L.C. No. 37
LYING IN
NW 1/4 SEC. 1, T. 11 S., R. 4 W., WM
IN THE
CITY OF ALBANY, BENTON COUNTY, OREGON
MARCH 30, 2004
CITY OF ALBANY CASE No. LA-05-09

LEGEND:

- FOUND MONUMENT, AS NOTED; SEE "FOUND MONUMENT LIST"
- SET 5/8" X 30" ROD W/Y.P.C. MARKED: MARKED "K+D ENGR. LS 78508"
- ⊙ FOUND MONUMENT USED TO DETERMINE BOUNDARY, SEE "FOUND MONUMENT LIST".
- ⊖ CALCULATED POINT FROM RECORD DATA
- () RECORD DATA; SEE "RECORD REFERENCE LIST"
- [] CALCULATED DATA BASED ON COUNTY SURVEY NO. 7745, UNLESS OTHERWISE NOTED.
- ⊞ FOUND MONUMENT REFERENCE; SEE "FOUND MONUMENT LIST"
- ⊙ FOUND SURVEY REFERENCE; SEE "RECORD REFERENCE LIST"
- *A* CALCULATED POINT LETTER
- ⊙1 CURVE DATA, SEE CURVE TABLE.
- L1 LINE DATA, SEE CURVE TABLE.

FOUND MONUMENT LIST:

- ⊞60 FOUND 3/1-1/4" BRASS CAP MARKING THE S-SW CORNER OF J.Q. THORNTON D.L.C. 37 AS SHOWN ON CORNER RESTORATION 114837040R2. **HELD.**
- ⊞61 FOUND 5/8" IR (A) 0.3' BELOW GROUND. ROD BEARS 5 51°59'01" E 0.30' FROM CALCULATED CORNER. **ON LINE.**
- ⊞62 FOUND 5/8" IR (A) W/ Y.P.C. MARKED: 7.5 501', 0.1' BELOW GROUND; ROD BEARS 5 32°58'50" E 1.52' FROM CALCULATED CORNER.
- ⊞63 FOUND 5/8" IR (A) 0.3' BELOW GROUND. ROD BEARS N 67°04'40" E 0.14' FROM PG.
- ⊞64 FOUND 5/8" IR (A) W/ DUSTED CAP; 10' OF ROD IS BENT; WE SPUN AND YEG. **HELD FOR PG.**
- ⊞65 FOUND 5/8" IR (A) W/ Y.P.C. MARKED: 7.5 501', 0.3' BELOW GROUND. **HELD.**
- ⊞66 FOUND 5/8" IR (C) 1.0' BELOW GROUND; ROD BEARS 5 84°55'57" E 0.63' OF LINE. MONUMENT MAY HAVE BEEN DISTURBED, AS IT IS 15' 32" FROM RECORD POSITION.
- ⊞67 FOUND 5/8" IR (B) W/ Y.P.C. MARKED: "NORTHSTAR PLS 1523". **ON LINE.**
- ⊞68 FOUND 5/8" IR (A) W/ Y.P.C. MARKED: 7.5 501', 1.0' BELOW GROUND; ROD BEARS N 54°16'26" W 0.41' FROM CALCULATED CORNER.
- ⊞69 FOUND 5/8" IR (A) W/ ROD THROUGH GAP, 1.0' BELOW GROUND. ROD BEARS N 53°51'31" W 0.34' FROM CALCULATED CORNER.
- ⊞70 FOUND 5/8" IR (A) W/ DAMAGED CAP, 1.0' BELOW GROUND; ROD BEARS 5 48°12'56" E 0.28' FROM CALCULATED CORNER.
- ⊞71 FOUND 5/8" IR (A) W/ Y.P.C. MARKED: 7.5 501', 1.0' BELOW GROUND; ROD BEARS 5 11°23'00" W 0.59' FROM PG.
- ⊞72 FOUND 5/8" IR (A) W/ Y.P.C. MARKED: 7.5 501', 1.0' BELOW GROUND. **HELD.**
- ⊞73 FOUND 5/8" IR (A) 0.3' ABOVE GROUND. ROD BEARS 5 08°46'28" W 6.98' FROM CALCULATED CORNER. MONUMENT APPEARS TO HAVE BEEN MOVED OR RESET.
- ⊞74 FOUND 5/8" IR (A) W/ Y.P.C. MARKED: 7.5 501', FLUSH WITH GROUND. **HELD.**

NARRATIVE:

PURPOSE:
THE PURPOSE OF THIS SURVEY IS TO ADJUST THE PROPERTY LINE BETWEEN THAT PROPERTY DESCRIBED AS "PARCEL I" AND THE PROPERTY DESCRIBED AS "PARCEL IV", BOTH PROPERTIES BEING DESCRIBED AND RECORDED IN M-280441-00, BENTON COUNTY DEED RECORDS. PREVIOUSLY MENTIONED "PARCEL I" IS SHOWN AS PROPERTY D ON THIS MAP; "PARCEL IV" IS SHOWN AS PROPERTY A.

BOUNDARY DETERMINATION:
A SURVEY COMPLETED BY VERLE MOORE IN APRIL OF 1985 MONUMENTED THE PROPERTY KNOWN AS "PARCEL IV" OF M-280441-00, BENTON COUNTY DEED RECORDS, AND WAS RECORDED AS COUNTY SURVEY NO. 7745. I WAS ABLE TO RECOVER MOST OF MR. MOORE'S MONUMENTS AND THEY DID NOT FIT VERY WELL TOGETHER, THE MONUMENTS WERE FOUND ANYWHERE FROM 1.0' BELOW THE SURFACE TO 0.3' ABOVE THE SURFACE. MONUMENT NO. 173 WAS FOUND ROUGHLY 7' FROM WHERE IT WAS SHOWN SET. THESE FACTS LEAD ME TO BELIEVE THAT SOME OF THE MONUMENTS IN THIS AREA HAVE BEEN MOVED AND/OR DISTURBED.

THE BOUNDARY OF THE SUBJECT PROPERTIES WAS ESTABLISHED BY HOLDING SOME OF THE FOUND MONUMENTS SET ON C.S. 7745 AND RECORD DATA PER C.S. 7745 AND M-280441-00 AS SHOWN, AND MORE PARTICULARLY DESCRIBED BELOW:

IN ORDER TO DETERMINE WHICH OF MR. MOORE'S MONUMENTS WERE DISTURBED I PLOTTED THE DEED LINES BASED UPON THE FOUND D.L.C. CORNER (FOUND MONUMENT #160) AND THE NORTHSTAR MONUMENT (FOUND MONUMENT #167). THIS MADE IT APPARENT AS TO WHICH MONUMENTS FIT WITH THE RECORD POSITIONS AND WHICH ONES DID NOT. THE BOUNDARY WAS THEN ESTABLISHED AS FOLLOWS: THE TANGENT SECTION SHOWN AS THE BASIS OF BEARINGS WAS ESTABLISHED BY HOLDING FOUND MONUMENT #174 AND A DISTANCE OF 60' FROM FOUND MONUMENT #165. CALCULATED POINT "A" WAS CALCULATED AT THE NORTHERLY TERMINUS OF THIS LINE. THIS LINE WAS OFFSET RECORD DISTANCE TO COMPUTE THE CENTERLINE AND OFFSET RECORD DISTANCE AGAIN TO COMPUTE POINT "B". POINT "A" WAS USED WITH FOUND MONUMENT #164 AND RECORD RADIUS TO COMPUTE CURVE #3. FOUND MONUMENT #161 WAS USED FOR DIRECTION TO COMPUTE THE MOST NORTHERLY TANGENT OF PROPERTY "A". RECORD DISTANCE WAS HELD, AS THE RIGHT-OF-WAY OF WEST THORNTON LAKE ROAD WAS NOT ESTABLISHED BY THIS SURVEY, CURVE #4 WAS ESTABLISHED BY HOLDING POINT "B" AND FOUND MONUMENT #172 ALONG WITH RECORD RADIUS. THIS CURVE WAS THEN OFFSET RECORD DISTANCES. FOUND MONUMENT #160 WAS HELD TOGETHER WITH RECORD DISTANCE FROM POINT "B" TO ESTABLISH THE SOUTH LINE OF THE J.Q. THORNTON D.L.C. NO. 37. THE REST OF THE PROPERTY SHOWN WAS ESTABLISHED BASED UPON INFORMATION OF RECORD AS SHOWN.

REGISTERED PROFESSIONAL LAND SURVEYOR
JAMES E. MONTOYA
JAN. 8, 2007
EXPIRES: 12/31/2010

Exhibit C Page 2 of 2

CURVE	RADIUS	DELTA	LENGTH	CHORD BEARING	CHORD
C1	70.00	52°11'34"	63.77	N26°01'37"W	61.58
(C1)(X)	70.00	52°14'55"	63.83	N26°03'25"W	61.41
C2	100.00	52°11'34"	91.09	N26°01'37"W	87.96
(C2)(X)	100.00	52°14'55"	91.19	N26°03'25"W	88.06
C3	130.00	52°11'34"	118.42	N26°01'37"W	114.37
(C3)(X)	130.00	52°14'55"	118.55	N26°03'25"W	114.48
C4	530.00	28°49'40"	266.66	S14°21'18"E	263.86
(C4)(X)	530.00	28°50'06"	266.73	S14°21'E	263.92
C5	500.00	28°49'40"	251.57	S14°21'18"E	248.92
(C5)(X)	500.00	28°50'06"	251.63	S14°21'E	248.99
C6	470.00	28°49'40"	236.48	S14°21'18"E	233.94
(C6)(X)	470.00	28°50'06"	236.53	S14°21'E	234.05
C7	500.00	06°14'07"	54.41	S03°03'34"E	54.39
(C7)(X)	500.00	22°39'31"	147.15	S17°28'23"E	145.88
C8	530.00	06°14'07"	57.65	S03°03'33"E	57.65
(C8)(X)	530.00	22°39'31"	208.98	S17°28'23"E	207.63
(C11)	7589.44	02°22'23"	314.34	S79°20'44"W	314.32
(C11)(X)	7589.44	N/A	314.36	S79°20'03"W	314.33
(C12)	7589.44	01°06'16"	146.24	S77°36'30"W	146.24

Date: 4/16/2009 Time: 11:19
Scale: 1"=100'
File: dwg\ZD06A06-63-GA06-G30PLA.dwg (James M)

K & D ENGINEERING, INC.
876 N.W. Hickory Street, P.O. Box 720
Albany, Oregon 97321
(503) 261-2552

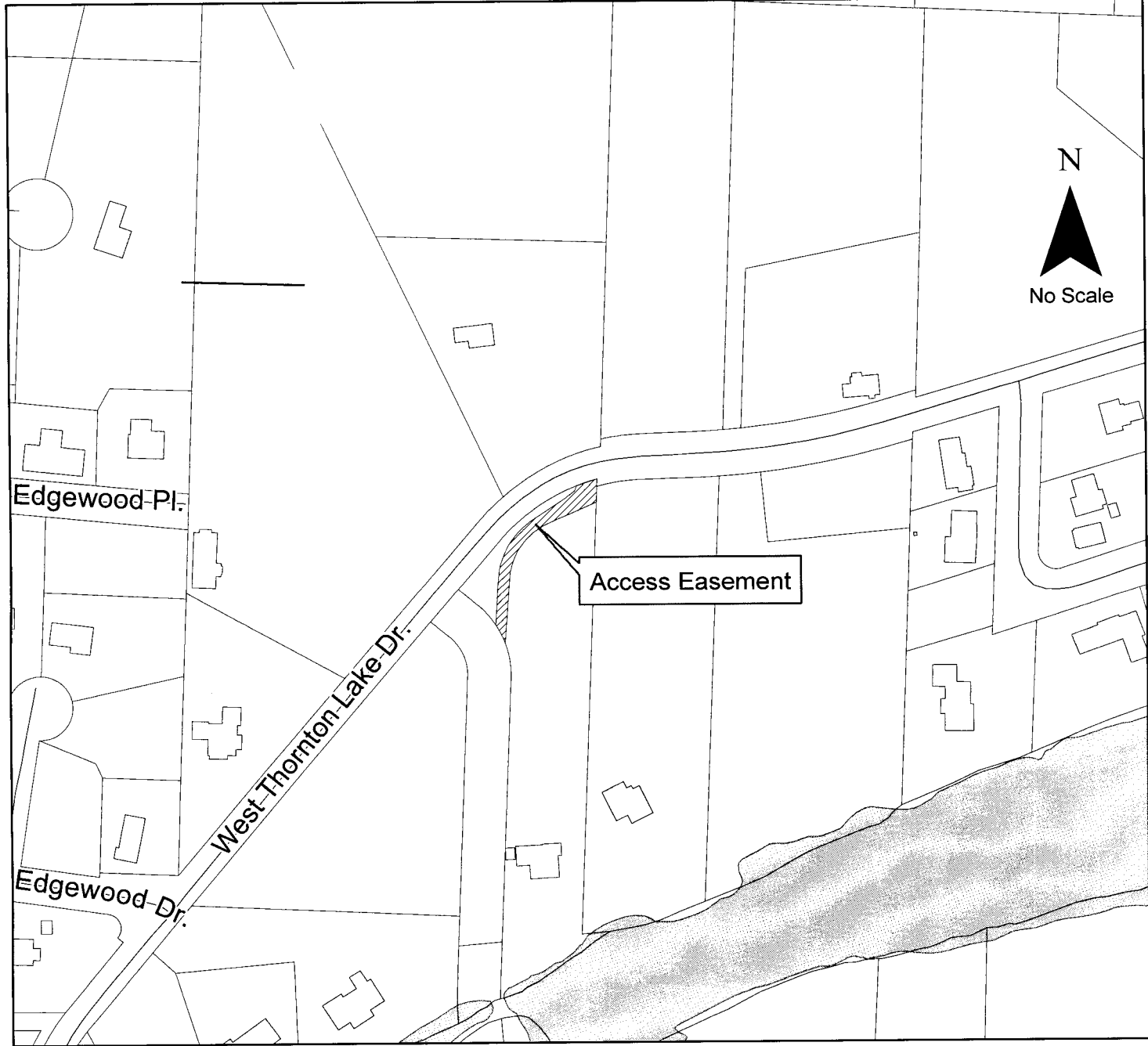
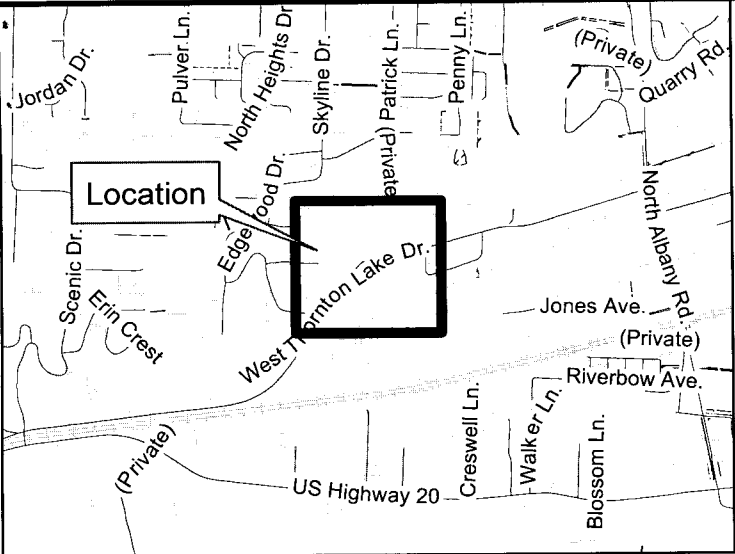
EXHIBIT D

11SO4W01BB00400

Variable width access
easement for Fabian
Estates Subdivision.



Geographic Information Services



RECORDING COVER SHEET (Please Print or Type)

This cover sheet was prepared by the person presenting the instrument for recording. The information on this sheet is a reflection of the attached instrument and was added for the purpose of meeting first page recording requirements in the State of Oregon, ORS 205.234, and does NOT affect the instrument.

AFTER RECORDING RETURN TO:

City of Albany Recorder _____

PO Box 490 _____

Albany, OR 97321 _____

All Tax Statements Should Be Sent To:

NA _____

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

EASEMENT FOR ACCESS

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

William S. McKinley and Kathryn A. McKinley _____

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

City of Albany and Gary and Patricia Davenport _____

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

\$7,500.00 _____

BENTON COUNTY, OREGON **2009-455789**

DE-EAS

Cnt=1 Str=9 KH

08/19/2009 01:51:56 PM

\$40.00 \$11.00 \$10.00 \$15.00

\$76.00



00185038200904557890080082

T

I, James V. Morales, County Clerk for Benton County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

James V. Morales - County Clerk



Resolution No. 5821

Recorded Document Recorder File No. 5370