

RESOLUTION NO. 21-25

A RESOLUTION TO ALLOW WALLS AS A REVOCABLE PERMANENT RIGHT-OF-WAY OBSTRUCTION AT 15941 AGNES AVENUE (TAX LOT 2-2E-20 -00503), OREGON CITY, CLACKAMAS COUNTY, OREGON

WHEREAS, walls were constructed partially in the right-of-way to keep the general public from entering the Clackamas County Tri-City Sewer District Wastewater Treatment Plant property at 15941 Agnes Avenue (Exhibit C); and

WHEREAS, the property owner seeks a Public Works permanent obstruction permit for obstruction in the right-of-way for the walls; and

WHEREAS, the property owner has met the requirements for a permanent obstruction permit; and

WHEREAS, Public Works has determined that the proposed walls will not interfere with any other uses of the right-of-way; and

WHEREAS, the Oregon City Municipal Code 12.04.120 requires that permanent obstructions in a public right-of-way be approved by the City Commission by passage of a resolution; and


WHEREAS, following passage of this resolution, Oregon City Public Works will issue a "Revocable Permanent Right-of-Way Obstruction Permit" which shall include a recorded covenant for maintenance of and release of liability for the walls (see examples shown in Exhibit A and Exhibit B).

NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS:

Section 1. Authorize the City Engineer to issue a Revocable Permanent Right-of-Way Obstruction permit at 15941 Agnes Avenue for the walls in the right-of-way adjacent to the property.

Section 2. Approval of Resolution No. 21-25, which will take effect immediately upon its adoption.

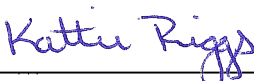
Approved and adopted at a regular meeting of the City Commission held on the 2nd day of June 2021.




RACHEL LYLES SMITH, Mayor

Attested to this 2nd day of June, 2021:

Approved as to legal sufficiency:



Kattie Riggs, City Recorder



City Attorney

EXHIBIT A - REVOCABLE PERMIT



City of Oregon City
PO Box 3040 | 625 Center Street
Oregon City, Oregon 97045

Permit	Permit NO. RWOBS-20-00003
	Permit Type: ROW Obstruction
	Work Classification: Long Term Commission Approval
	Permit Status: In Review
Issue Date:	Expiration:

Location Address

Parcel Number

15941 AGNES AVE, OREGON CITY, OR 97045

2-2E-20 -00503

Contacts

CLACKAMAS COUNTY WATER ENVIRONMENT SERVICES (503)742-4567	Applicant
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Description: Walls in the right-of-way at WES TCSD facility at 15941 Agnes Ave. See Resolution 21-25 and Exhibits B and C for more information. Permit may be revoked by the City.

Valuation:	\$0.00
Total Sq Feet:	0.00

Inspection Requests:

https://online.oregoncity.org/EnerGov_Prod/SelfService

Fees	Amount
Total:	

Payments	Amt Paid
Total Fees	
Amount Due:	

By signing the permit, the permittee agrees to comply with the permit conditions, provisions, and standards as provided on the following page(s). Work shall adhere to City Design and Construction Standards found at <https://www.oregoncity.org/publicworks/design-and-construction-standardsdrawings>.

Issued By: Aaron Parker

Date

Authorized Permit Holder (Permittee)

Date

AFTER RECORDING RETURN TO:

City of Oregon City, City Recorder
P.O. Box 3040
Oregon City, Oregon 97045-0304

City Resolution No.: 19-31 Public Works Permit No.: RWOBS-20-00003
Street Address: 15941 Agnes Ave, Oregon City, OR 97045
Tax Map & Lot: 2-2E-20-00503 PROPERTY OWNER: Water Environment Services

DECLARATION OF COVENANT OF MAINTENANCE, RELEASE AND INDEMNITY

This COVENANT OF MAINTENANCE, RELEASE AND INDEMNITY ("**Covenant**") is made between

Water Environment Services, an ORS 190 Partnership hereinafter referred to as "**Permittee**", and the CITY OF OREGON CITY, a municipal corporation of the State of Oregon formed pursuant to ORS Chapter 457 (the "**City**").

RECITALS

A. Permittee is/are the owner(s) of certain real property located in the City of Oregon City, Clackamas County, Oregon, legally described on **Exhibit A** attached hereto and commonly known as the Tri-City Wastewater Treatment Plant located at 15941 Agnes Ave., Oregon City, OR (the "**Property**").

B. Permittee has applied for City right-of-way permit ("**Permit**") to maintain a permanent obstruction that is regulated and governed by Oregon City Municipal Code Chapter 12 *Streets, Sidewalks and Public Places*, Section 12.04.120 *Obstructions Permit required*.

C. The City has approved the Permit through adoption of **Resolution No.** 19-31 (**Exhibit B** attached hereto) allowing a wall along the west side of Agnes Avenue ("**Obstruction**") within the public right-of-way as shown in the "Site Plan" **Exhibit C** attached to this Covenant. The Obstruction is solely for the Property, contingent on Permittee providing this maintenance covenant and release to the City for all activities undertaken pursuant to the Permit issued by the City pursuant to Oregon City Municipal Code section 12.04.120 *Obstructions Permit required*, which requires Permittee to maintain, and release the City from all damages resulting from, the approved permanent obstruction in the right-of-way.

D. To protect owners of neighboring properties, the City requires the Permittee to enter this Covenant as a condition to the City's approval of building permits.

COVENANT

NOW, THEREFORE, Permittee covenants as follows:

In consideration of the issuance of the City Resolution and Permit, the undersigned ("**Permittee**") hereby covenants and agrees to the following terms:

6. **Release.** Subject to the limitations of the Oregon Constitution and the Oregon Tort Claims Act, Permittee does hereby release and forever discharge the City of Oregon City, and its City Commissioners, officers, agents, volunteers and employees (collectively “**Indemnitees**”) from all claims, liability, loss and demands of whatever kind or nature, either in law or in equity, arising from or related to Permittee’s activity described above and/ or otherwise authorized by the Permit. Without limiting the generality of the foregoing, Permittee understands and agrees that this Covenant discharges each of the Indemnitees from any liability or claim that Permittee may have against any of them with respect to any bodily injury, personal injury, illness, death, or property damage that may arise from or relate to Permittee’s activity described above and/or otherwise authorized by the City’s Decision. Permittee hereby expressly and specifically assumes the risk of injury or harm or damage to person or property with respect to the activity described above or otherwise authorized by the Permit.

7. **Indemnity.** Permittee hereby agrees to indemnify, defend (with legal counsel acceptable to the Indemnitees) and hold the Indemnitees harmless from all claims, liability, loss, damage, cost or expense that the Indemnitees may sustain or incur arising from or relating to Permittee’s activity described above and/or otherwise authorized by the Permit. The foregoing indemnity shall include but not be limited to any claims, liability, loss, damage, cost or expense due to any bodily injury, personal injury, illness, death, or property damage arising from or related to Permittee’s activity described above and/or otherwise authorized by the Permit.

8. **Run with the Land.** The parties’ rights and obligations contained herein shall run with the land and inure to the benefit of, and shall be binding upon, the City and Permittee and their respective successors and assigns (including, without limitation, subsequent owners of the Property or lots in the Property and any homeowner’s association owning common areas in the Property).

9. **Interpretation.** The undersigned agrees that this Covenant is intended to be as broad and inclusive as is permitted by the laws of Oregon, and that if any portion of this Covenant is held invalid, it is agreed that the remaining portion shall continue in full force and effect.

10. **Enforcement.** Reserved.

11. **Authority.** In the event the undersigned is a limited liability company, corporation or other organization, the individual signing below represents and warrants he/she has authority to execute this Covenant on behalf of such organization.

12. **Binding Effect.** The indemnity described in Section 7, shall be binding upon Permittee’s agents, guests, licensees, heirs, personal representatives, executors, successors and assigns.

13. **Jurisdiction.** In the event of any dispute between the undersigned and any or all of the Indemnitees, such dispute shall be governed by Oregon law and the exclusive jurisdiction for such dispute shall be the State courts for the State of Oregon, and the exclusive venue for such dispute shall be Clackamas County, Oregon.

PERMITTEE: Water Environment Services

As shown on Page 1 (name of organization or individual property owner(s))

[Handwritten Signature]

III.1.

Signature No. 1

Jim Bernard

Chair

Signer's printed name

Title (if applicable)

STATE OF OREGON)

County of Clackamas)

This record was acknowledged before me on (month & day) Nov. 7, 2019

by Jim Bernard

as Chair

Signer's printed name

Title (write "N/A" if not applicable)

of Clackamas County

Name of Corporation on whose behalf record is executed (write "N/A" if not applicable)

Stamp notary seal:

WITNESS my hand and official seal.



Mary E. Raethke
Signature of Notary Public

My commission expires: 12-23-19

Accepted on behalf of the City of Oregon City:

John M. Lewis

By: John M. Lewis, Public Works Director

Kattie Riggs

Attest: Kattie Riggs, City Recorder

EXHIBIT A

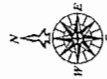
SN2008-317 sheet 2 of 3

RECORD OF SURVEY

LOCATED IN THE S.W. 1/4 OF SECTION 20,
S.E. 1/4 OF SECTION 20 AND THE N.W. 1/4 OF SECTION 29
TOWNSHIP 2 SOUTH, RANGE 2 EAST, W.M.
CITY OF OREGON CITY, CLACKAMAS COUNTY, OREGON

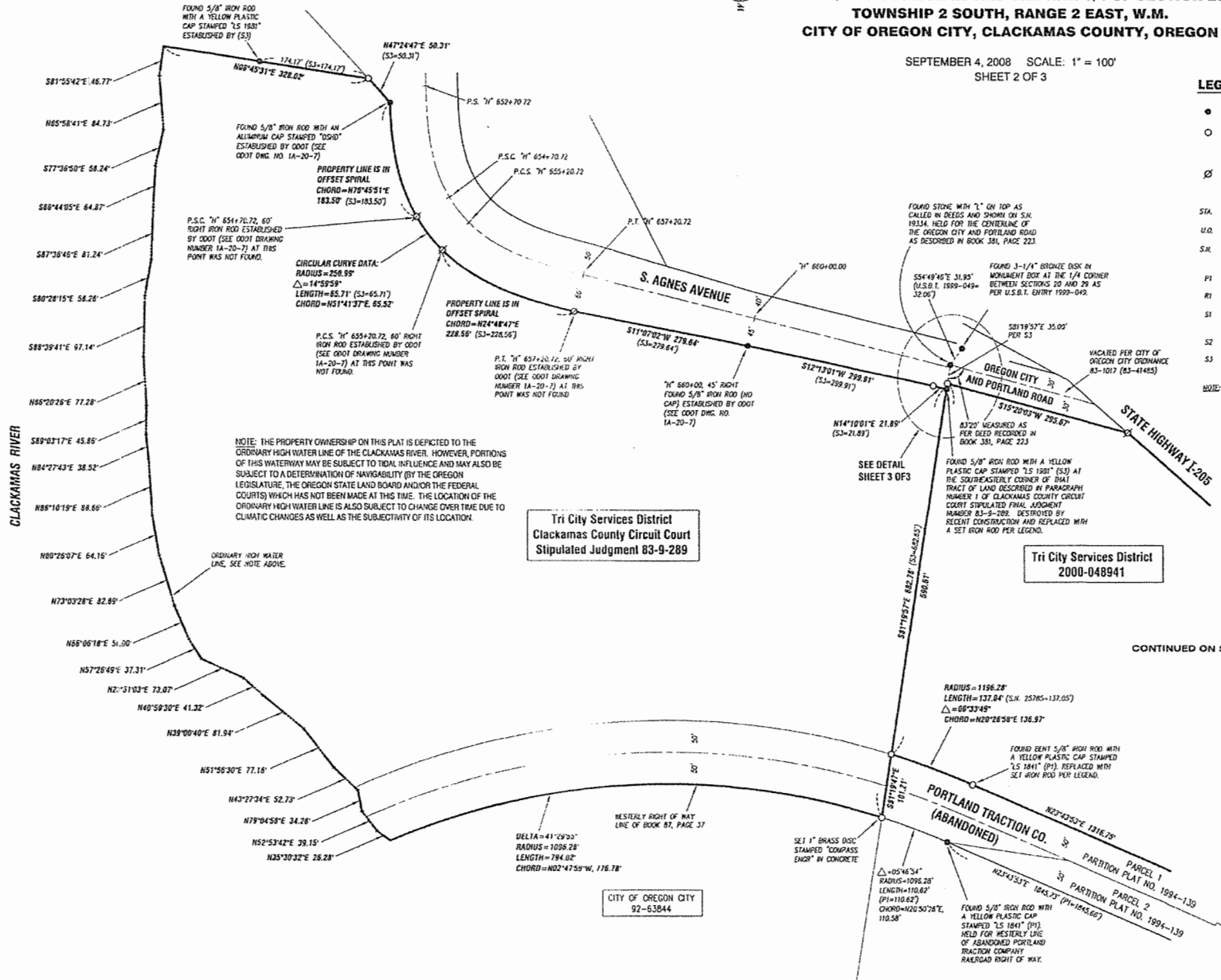
SEPTEMBER 4, 2008 SCALE: 1" = 100'
SHEET 2 OF 3

Clackamas County Surveyor
 Received 10-10-08
 Accepted for filing 11-3-08
 Survey Number SN 2008-317



LEGEND:

- DENOTES MONUMENT FOUND AS NOTED
- DENOTES 5/8" DIAMETER BY 30" LONG IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "COMPASS ENGINEERING", UNLESS OTHERWISE NOTED, SET ON SEPTEMBER 4, 2008
- ⊘ DENOTES 5/8" DIAMETER BY 30" LONG IRON ROD WITH AN ALUMINUM CAP STAMPED "COMPASS ENG." SET ON SEPTEMBER 4, 2008
- STA. STATION
- U.O. UNKNOWN ORIGIN
- S.R. DENOTES SURVEY NUMBER ON FILE WITH CLACKAMAS COUNTY SURVEYOR'S OFFICE
- PI PARTITION PLAT NO. 1994-139
- RI DOCUMENT NUMBER 74-10037
- SI CDDT DRAWING NO. 1A-20-7 (CLACKAMAS RIVER-WEST LONI SECTION, EAST PORTLAND FREEWAY)
- S2 S.M. 7103
- S3 S.M. 19354
- NOTE: IRON PIPES NOTED ARE MEASURED INSIDE DIAMETER.



CONTINUED ON SHEET 3 OF 3

REGISTERED PROFESSIONAL LAND SURVEYOR

Don Devlaeminck

OREGON
 JULY 14, 1978
 DON DEVLAEINCK
 1634

DATE OF SIGNATURE: 10/24/08
 EXPIRES 12/31/2008

Survey prepared by:
 Compass Engineering
 4105 International Way, Suite 501
 Milwaukie, Oregon 97222
 Phone: 503-653-9093
 6589 Bnd3.dwg (MIMM)
 Job No. 6589 (Survey)

EXHIBIT B

RESOLUTION NO. 19-31

A RESOLUTION TO ALLOW A WALL AS A REVOCABLE RIGHT-OF-WAY OBSTRUCTION AT 15941 AGNES AVENUE (TAX LOT 2-2E-20 -00503), OREGON CITY, CLACKAMAS COUNTY, OREGON

WHEREAS, a wall ("WALL") was constructed, to keep the general public from entering the Clackamas County Water Environment Services Tri-City Sewer District Treatment Plant property at 15941 Agnes Avenue ("PROPERTY"), partly within the adjacent right-of-way; and

WHEREAS, the PROPERTY owner seeks a Public Works long-term obstruction permit for permanent obstruction in the right- of-way for the WALL; and

WHEREAS, the PROPERTY owner has met the requirements for a long-term obstruction permit; and

WHEREAS, Public Works has determined that the proposed WALL will not interfere with any other uses of the right-of-way; and

WHEREAS, the Oregon City Municipal Code 12.04.120 requires that permanent obstructions in a public right-of-way be approved by the City Commission by passage of a resolution; and

WHEREAS, following passage of this resolution, Oregon City Public Works will issue a "Revocable Long-Term Right-of-Way Obstruction Permit," which includes a covenant for maintenance of the WALL.

NOW, THEREFORE, OREGON CITY RESOLVES:

Section 1. Authorize the City Engineer to issue a Revocable Long-Term Right-of-Way Obstruction permit at 15941 Agnes Avenue for the WALL in the right-of-way adjacent to the PROPERTY.

Section 2. Approval of Resolution No. 19-31, which will take effect immediately upon its adoption.

Approved and adopted at a regular meeting of the City Commission held on the ____ day of _____, 2019.

Dan Holladay, Mayor

Attested to this ____ day of _____ 2019:

Approved as to legal sufficiency:

Kattie Riggs, City Recorder

Carrie Richter, City Attorney

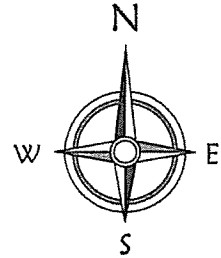
EXHIBIT C
PAGE 1 OF 2

TAX LOT 503
MAP 2-2E-20
TRI-CITY SERVICES DISTRICT

7' WALL ENCROACHMENT

S78°52'58"E
7.00'
EAST EDGE OF
WALL IS 0.7' EAST
OF RIGHT OF WAY

EAST EDGE OF WALL
COLUMN IS 6.0' EAST
OF RIGHT OF WAY



Scale: 1" = 30'



S. AGNES AVENUE

N11°07'02"E 223.00'

S11°07'02"W 223.00'

EAST EDGE OF WALL
COLUMN IS 0.7' EAST
OF RIGHT OF WAY

EAST EDGE OF WALL
COLUMN IS 0.7' EAST
OF RIGHT OF WAY

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 14, 1978
DON DEVLAEINCK
1634

DATE OF SIGNATURE: 7/10/2012
EXPIRES 12/31/2013

POINT "A"
SOUTHEASTERLY CORNER OF
TRACT DESCRIBED IN
PARAGRAPH NO. 1, CLACKAMAS
COUNTY CIRCUIT COURT
STIPULATED FINAL JUDGMENT
NO. 83-9-289.

N78°52'58"W
7.00'

TRUE POINT OF BEGINNING
THIS POINT IS LOCATED N14°10'01"E 21.89',
AND N12°13'01"E 299.91', AND N11°07'02"E
14.30' FROM POINT "A"

STONE WITH "L"
N81°19'57"W 39.25'

POINT OF COMMENCEMENT
BRONZE DISK IN A MONUMENT BOX AT 1/4
CORNER BETWEEN SECTIONS 20 AND 29

N54°49'46"W 31.95'

6589 Exh7.dwg

EXHIBIT C
PAGE 2 OF 2

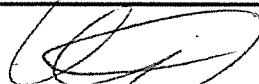
WALL ENCROACHMENT

A 7.00 FOOT WIDE STRIP OF LAND SITUATED IN SECTION 20, TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRONZE DISK IN MONUMENT BOX AT THE 1/4 CORNER BETWEEN SECTIONS 20 AND 29, TOWNSHIP 2 SOUTH, RANGE 2 EAST, W.M., AS PER U.S.B.T. ENTRY 2012-018, CLACKAMAS COUNTY SURVEY RECORDS; THENCE NORTH 54°49'46" WEST 31.95 FEET TO A STONE WITH "L"; THENCE NORTH 81°19'57" WEST 39.25 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LS 1981" AT THE SOUTHEASTERLY CORNER OF THAT TRACT OF LAND DESCRIBED IN PARAGRAPH NUMBER 1 OF CLACKAMAS COUNTY CIRCUIT COURT STIPULATED FINAL JUDGMENT NUMBER 83-9-289; THENCE ALONG THE EASTERLY LINE OF SAID TRACT OF LAND DESCRIBED IN PARAGRAPH NUMBER 1 OF CLACKAMAS COUNTY CIRCUIT COURT STIPULATED FINAL JUDGMENT NUMBER 83-9-289 NORTH 14°10'01" EAST 21.89 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "COMPASS ENGINEERING"; THENCE CONTINUING ALONG SAID EASTERLY LINE NORTH 12°13'01" EAST 299.91 FEET TO A 5/8" IRON ROD; THENCE CONTINUING ALONG SAID EASTERLY LINE NORTH 11°07'02" EAST 14.30 FEET TO THE TRUE POINT OF BEGINNING OF THE STRIP TO BE DESCRIBED; THENCE CONTINUING ALONG SAID EASTERLY LINE NORTH 11°07'02" EAST 223.00 FEET; THENCE LEAVING SAID EASTERLY LINE SOUTH 78°52'58" EAST 7.00 FEET; THENCE SOUTH 11°07'02" WEST 223.00 FEET; THENCE NORTH 78°52'58" WEST 7.00 FEET TO THE TRUE POINT OF BEGINNING.

BASIS OF BEARINGS: SN 2008-317

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JULY 14, 1978
DON DEVLAEINCK
1634

DATE OF SIGNATURE: 7/10/2012

EXPIRES 12/31/2013

EXHIBIT C - SITE MAP (LEGAL DESCRIPTION)

SHEET 1 OF 2

WALL ENCROACHMENT

A 7.00 FOOT WIDE STRIP OF LAND SITUATED IN SECTION 20, TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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BASIS OF BEARINGS: SN 2008-317



DATE OF SIGNATURE: 2/10/2012
EXPIRES 12/31/2013

TAX LOT 503
MAP 2-2E-20
TRI-CITY SERVICES DISTRICT

7' WALL ENCROACHMENT

S78°52'58"E
7.00'

EAST EDGE OF
WALL IS 0.7' EAST
OF RIGHT OF WAY

EAST EDGE OF WALL
COLUMN IS 6.0' EAST
OF RIGHT OF WAY

N11°07'02"E 223.00'
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S. AGNES AVENUE

EAST EDGE OF WALL
COLUMN IS 0.7' EAST
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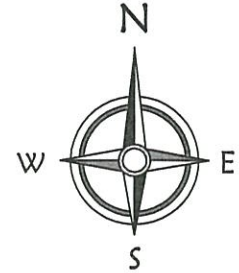
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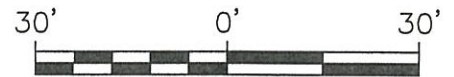
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N81°19'57"W
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Scale: 1" = 30'



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EXPIRES 12/31/2013

EXHIBIT C

6589 Exh7.dwg

engineering surveying planning
COMPASS ENGINEERING
4107 SE International Way, Suite 705 503.653.9093
Milwaukie, Oregon 97222 www.compass-engineering.com

S.W. 1/4 SECTION 20, T.2S., R.2E., W.M.
CLACKAMAS COUNTY, OREGON

2
2