

AFTER RECORDING, RETURN TO:

Gerald M. Shean, III  
Gerald M. Shean, P.C.  
225 South Holly  
Medford, OR 97501



00121320201200078120070075

07/18/2012 09:48:57 AM

Fee: \$67.00

WATER LINE EASEMENT

This WATER LINE EASEMENT is hereby granted by SOUTH VALLEY BANK AND TRUST, an Oregon banking corporation, ("Grantor") for the benefit of SCOTT R. NELSON ("grantee") on this 26 day of April 2012.

RECITALS:

A. Grantor owns three parcels of real property described as Map 381W10, Tax Lots 1900, 1990 and 1901, more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Burdened Property").

B. Grantee owns a parcel of real property described as Map/Tax Lot 381W15A 1500, which is southerly from the Burdened Property and is more particularly described in Exhibit "B" attached hereto and made a part hereof (the "Benefited Property").

C. Grantor agrees to grant a Water Line Easement across the Burdened Property to Grantee under the following terms and conditions, which are acceptable to Grantee.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Grant of Easement. In exchange for the mutual obligations contained herein, Grantor hereby grants to Grantee, a permanent, nonexclusive and appurtenant easement over, across and under the Burdened Property for the purpose of installing and maintaining an underground waterline across the Burdened Property. The easement shall be located in the approximate location of the dashed line shown on Exhibit "C" attached hereto and made a part hereof, but shall be immediately adjacent to the existing roadway (the "Easement"). Said Easement shall be fifteen (15) feet wide, to allow for maintenance and repair of the waterline and includes the right of ingress and egress over and across the adjacent roadway for the purpose of inspection, maintenance and repair of the waterline.

2. Scope of Easement.

2.1 Use by Benefited Property. The Easement is for the benefit of all or any portion of the Benefited Property. The Easement shall not be limited in scope and may be used to serve any future partition or division of the Benefited Property. The Easement shall not be obstructed by Grantee. Grantee may allow third parties to use water from Grantee's waterline, provided such use is from the same waterline and provided such use does not otherwise expand the scope of this easement.

2.2 Use by Burdened Property. The Easement is nonexclusive and Grantor expressly reserves the right to use the Easement for any purpose not inconsistent with the Grantee's use of the easement.

3. Maintenance Obligations. It shall be Grantee's sole responsibility to maintain and repair the waterline located within the easement. Any disruption to the soil on the Burdened Property arising from such maintenance and repair shall be promptly restored.

4. No Amendments or Expansion. The depiction of the easement attached hereto as Exhibit "D" is approximate and intended for illustrative purposes only. This Easement may not be amended or expanded in scope without the express written consent of all owners of the Burdened Property, contained in a document which is recorded in the Official Records of Jackson County, Oregon.

5. Binding Effect. This Easement is appurtenant to the Benefited Property, and is intended to run with the land. It shall be binding upon, and inure to the benefit of, Grantor and Grantee and their respective successors and assigns, and all future owners of any interest in the Burdened and Benefited Properties unless it is terminated by mutual agreement of all ownership interests in the Burdened and Benefited Properties. This Easement may not be alienated from the Benefited Property or transferred independently of a transfer of all or a part of the Benefited Property.

6. Limitation of Remedies. It is expressly agreed that no breach of this agreement shall entitle any party to cancel, rescind or otherwise terminate this agreement.

7. Attorney Fees. In the event any litigation is instituted to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover from the losing party the prevailing party's reasonable attorney fees at trial or on any appeal for petition for review therefrom, as adjudged by the trial or appellate courts.

8. Oregon Law. This agreement shall be governed and performed in accordance with the laws of the State of Oregon.

GRANTOR:

SOUTH VALLEY BANK AND TRUST,  
an Oregon banking corporation

By: William E Castle  
William E Castle, PRESIDENT/CEO  
(name) (title)

GRANTEE:

Scott R. Nelson  
Scott R. Nelson

STATE OF OREGON )  
County of ~~Jackson~~ <sup>Klamath</sup> ) ss.

On this 26 day of April, 2012, personally appeared the above-named William E. Castle, serving in the capacity of President/CEO for South Valley Bank and Trust, and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me:



Dena C. Hadwick  
Notary Public for Oregon

STATE OF OREGON                 )  
County of Jackson               ) ss.

On this 12<sup>th</sup> day of April, 2012, personally appeared the above-named SCOTT R. NELSON, and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me:



Notary Public for Oregon

EXHIBIT "A"  
(The "Burdened Property")

Beginning at a point on the South line of the county road, said point being East 990.0 feet and South 1180.0 feet, more or less, of the Northwest corner of Donation Land Claim No. 82 in Township 38 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon (and the Northwest corner of the Jennie Hensler 'nee Fern' Tract described in Volume 76, Page 348, Jackson County, Oregon, Deed Records); then North 72° 00' West, along said road line, 255.0 feet, more or less, to the Easterly boundary line right of way of the Medford Irrigation District's Irrigation ditch; thence along said boundary line the following: South 23° 27' West 171.0 feet; thence South 5° 44' West, 188.0 feet; thence South 36° 18' East 236.0 feet; thence South 5° 33' West, 198.0 feet; thence South 26° 02' East, 154.0 feet; thence South 51° 36' East, 98.0 feet; and thence South 63° 35' East, 143.0 feet to the West line of said tract described in Volume 76, Page 348, said Deed Records; thence North, along said line to the point of beginning.

ALSO: Commencing at a point in the County Road, said point being East 30.64 chains and South 19.47 chains from the Northeast corner of Donation Land Claim No. 42 in Township 38 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon, and from which said point a concrete gate post 14 inch in diameter bears South 1° 15' West, 30.3 feet, and a yew gate post set in concrete bears South 24° 00' East, 26.5 feet; thence North 89° 45' West, 7.68 chains to the true point of beginning; thence South 00° 12' East, 26.54 chains; thence West 8.04 chains; thence north 27.93 chains; thence South 70° 30' East, 4.13 chains; thence south 89° 45' East, 4.07 chains to the true point of beginning.

EXCEPTING THEREFROM a strip of land 38.0 feet wide, running along the entire East side of, and being a part of that certain real property more particularly described in Volume 249, Page 470, Jackson County, Oregon, Deed Records, which said 38.0 foot strip commences at the Fern Valley Road and runs Southerly therefrom, along the entire length of said real property described in Volume 249, Page 470, said Deed Records.

ALSO: Beginning at a point 40.00 chains South and 15.00 chains East of the Northeast corner of Donation Land Claim No. 42 in Township 38 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon; thence West 5.40 chains; thence south 41.65 chains; thence East 13.42 chains; thence North 31.68 chains; thence West 8.04 chains; thence North 9.97 chains to the point of beginning.

ALSO: Commencing at a point in the County Road from which the Northeast corner of Donation Land Claim No. 42 in Township 38 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon, bears North 19.47 chains and West 30.64 chains; thence North 89° 45' West, 7.68 chains; thence South 0° 12' East, 26.54 chains to the true point of beginning (being the Southeast corner of first parcel of Tract 2 as described in deed recorded in Volume 249, Page 470, Jackson County, Oregon, Deed Records); thence West, along the South line of said tract, 8.04 chains to the Southwest corner

thereof, also on an East line of second parcel of Tract 2 as described in said deed; thence South, along said East line, 4.00 chains more or less, to the inside ell corner of said tract; thence East, along a North line of said tract, 8.04 chains to a point South of the point of beginning; thence North 4.00 chains, more or less, to the true point of beginning.

EXCEPTING THEREFROM that portion described in deed recorded as Document No. 76-18052, Official Records of Jackson County, Oregon.

EXCEPTING FROM THE FOREGOING TRACTS AND PARCELS that portion lying within the following: Commencing at a point on the West boundary of what is known as the HILLDALE ORCHARD TRACT, hereinabove described, where said tract intersects the South bank of the Medford Irrigation Canal; thence South to the Southwest corner of said hereinabove described tract; thence East to the Southeast corner of said hereinabove described tract; thence North 1955.0 feet to an iron stake on the East boundary of said hereinabove described tract; thence West 234.0 feet to an iron stake; thence North  $21^{\circ} 32'$  West to intersect the Southerly right of way line of Medford Irrigation District's main canal at a  $\frac{3}{4}$  inch steel pin located at the South end of the West side of a bridge crossing said canal; thence West, along said canal right of way, 357.0 feet to the point of beginning.

(Map No. 381W10, TL 1900)

(Map No. 381W10, TL 1901)

(Map No. 381W10, TL 1990)

**EXHIBIT "B"**  
**(The "Benefited Property")**

**TRACT A:**

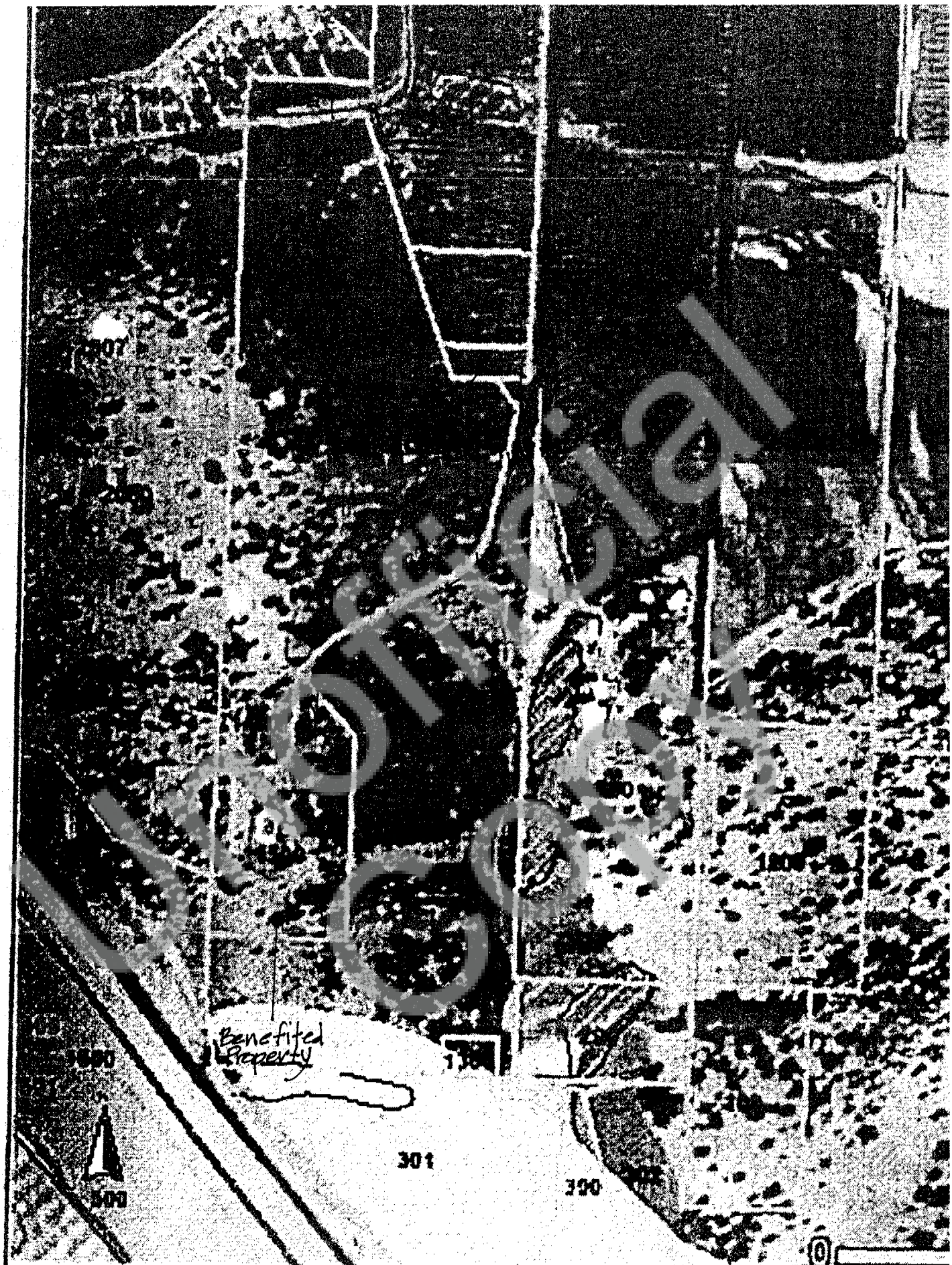
Commencing at the Interior "L" Corner of Donation Land Claim No. 42 in Township 38 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence North 0°06'50" East, along the East line of said Claim, 1971.69 feet (record North 0°05' East 1971.30 feet) to a 1" axle; thence South 89°53'10" East (record South 89°55'00" East) 633.60 feet to a 1" drill steel; thence South 0°06'50" West (record South 0°05'00" West) 1147.90 feet to a 5/8" iron pin for the true point of beginning (said point being on the east line of tract described in Volume 257, Page 208 of the Deed Records of Jackson County, Oregon); thence North 83°31'45" East 106.345 feet to a 5/8" iron pin at the beginning of a concrete block retaining wall; thence along aforementioned retaining wall as follows: North 83°31'45" East 58.20 feet to a point of curve, and along a variable radius curve to the left, North 79°59'30" East 11.03 feet, North 68°30'45" East 16.285 feet, North 49°01'00" East 17.21 feet, North 31°01'10" East 14.925 feet, North 20°08'10" East 20.275 feet and North 15°11'25" East 8.25 feet to a 5/8" iron pin at a point of tangent at the end of aforementioned retaining wall; thence North 2°01'15" East 217.725 feet to a 5/8" iron pin; thence South 45°00'00" East 251.445 feet to a 5/8" iron pin; thence South 0°06'50" West 572.69 feet to a 5/8" iron pin; thence North 89°53'10" West 404.58 feet to a 5/8" iron pin on the eastern right of way line of Interstate Highway No. 5; thence North 0°06'50" East, along said right of way line and its extension thereof, and the east line of said tract described in Volume 257 Deeds Page 208, a distance of 454.585 feet to the true point of beginning.

**TRACT B:**

Commencing at a 5/5" iron pin at the Southeast corner of the above described Tract A; thence North 0°06'50" East 80.065 feet; thence South 49°48'35" East 116.39 feet; thence South 46°05'10" East 396.956 feet to the true point of beginning; thence South 80°51'25" East 88.055 feet to a 5/8" iron pin; thence South 0°51'00" West 108.775 feet to a 5/8" iron pin on the North line of Donation Land Claim 42 in Township 38 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence North 89°51'25" West, along said line, 156.12 feet to a 5/8" iron pin; thence North 0°08'35" East 108.765 feet to a 5/8" iron pin; thence South 89°51'25" East 69.495 feet to the true point of beginning.

**NOTE:** This legal description was created prior to January 01, 2008.





Please recycle with colored office grade paper.

EXHIBIT "C"

Circle