

2021-000014

Klamath County, Oregon



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01/04/2021 12:18:30 PM

Fee: \$112.00

**After recording return to:**

Crescent Sanitary District  
P.O. Box 265  
Crescent, Oregon 97733

**Until further notice,**

**send tax statements to:**  
Crescent Sanitary District  
P.O. Box 265  
Crescent, Oregon 97733

**GRANTORS:**

Monica Wellington and Kurt Malmedal  
38657 NW Harrison Rd  
Banks, Oregon 97106

**GRANTEE:**

Crescent Sanitary District  
P.O. Box 265  
Crescent, Oregon 97733

**CRESCENT SANITARY DISTRICT  
PUBLIC UTILITY EASEMENT**

Monica Wellington and Kurt Malmedal, hereinafter referred to as "Grantors," own the real property described below and do hereby give and grant unto the Crescent Sanitary District, a municipal corporation located in Klamath County, Oregon, hereinafter referred to as "Grantee," a non-exclusive perpetual easement for a public utility, including the right to lay, construct and maintain a sewer line, and all related appurtenances, hereinafter referred to as "Public Utility," to be constructed and located under the surface of Grantors' real property, described as follows:

**EASEMENT AREA**

A VARIABLE WIDTH SEWER EASEMENT, LOCATED IN THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 24 SOUTH, RANGE 9 EAST, OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**POINT OF BEGINNING** IS THE SOUTHWEST CORNER OF PARCEL 3 LAND PARTITION 32.03; THENCE NORTH 14° 59' 56" EAST A DISTANCE OF 55.82 FEET TO A POINT; THENCE SOUTH 14° 59' 53" EAST A DISTANCE OF 39.40 FEET TO A POINT; THENCE SOUTH 14° 59' 56" WEST A DISTANCE OF 25.82 FEET TO A POINT; THENCE SOUTH 51° 01' 51" EAST A DISTANCE OF 132.36 FEET TO A POINT; THENCE NORTH 15° 28' 10" EAST A DISTANCE OF 217.09 FEET TO A POINT; THENCE NORTH 44° 24' 19" EAST A DISTANCE OF 44.40 FEET TO A POINT; THENCE NORTH 15° 36' 46" EAST A DISTANCE OF 238.51 FEET TO A POINT; THENCE SOUTH 51° 01' 51" EAST A DISTANCE OF 15 FEET TO A POINT; THENCE SOUTH 15° 36' 46" WEST A DISTANCE OF 238.51 FEET TO A POINT; THENCE SOUTH 44° 24' 19" WEST A DISTANCE OF 44.40 FEET TO A POINT; THENCE SOUTH 15° 28' 10" WEST A DISTANCE OF 217.09 FEET TO A POINT; THENCE

**PUBLIC UTILITY EASEMENT**

SOUTH 51° 01' 51" EAST A DISTANCE OF 135.07 FEET TO A POINT; THENCE SOUTH 51° 01' 51" WEST A DISTANCE OF 30 FEET TO A POINT; THENCE NORTH 51° 01' 51" WEST A DISTANCE OF 312.46 FEET TO POINT OF BEGINNING.

CONTAINS 12,754.20 SQUARE FEET, OR 0.29 ACRES, MORE OR LESS.

(See Easement Map, attached as Exhibit A\*).

The true and actual consideration for this easement is in kind as described in Agreement between the parties dated of even date herewith, the terms of which Agreement are hereby incorporated.

This grant is intended to exclude other below surface installations. Grantee and its contractors, subcontractors, agents, or employees shall have the right to enter and occupy the easement for the purpose of constructing, operating, and maintaining the Public Utility, including inspection, repair, replacement, removal, or renovation of the Public Utility.

Grantors agree not to plant any tree, shrub, or plant within the Public Utility easement, nor, build any structure or place any fence in the easement without first obtaining written permission from Grantee. Balm, poplar, locust, cottonwood or willow trees should not be planted near the Public Utility easement. Except as otherwise described in this agreement, it is understood that Grantee may remove any physical obstructions including buildings, fences, trees, or shrubbery, and abate any use of the easement if Grantee finds that the physical obstruction or use will interfere with the Public Utility or Grantee's easement rights granted above, without recompense to the Grantors.

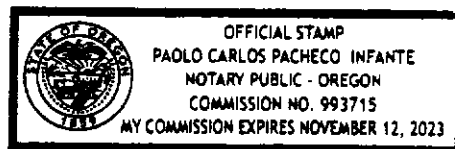
Grantors and Grantee intend that this easement bind Grantors, their heirs, successors and assigns. This easement will not be considered abandoned until Grantee has declared the easement abandoned and no longer in use by Grantee, and releases this easement in a duly executed and recorded Release of Easement.

In addition to all other remedies allowed by law, the parties, its successors and assigns, shall have the right to seek injunctive relief for the enforcement of the terms and conditions of this easement. If either party is required to bring suit or action to enforce these easement terms, the prevailing party shall be entitled to recover such sums as the court may adjudge reasonable as attorney fees and costs in such suit or action, or upon appeal.

\*Note Exhibit A is approximate. Please see the legal description for exact locations.

DATED this 12 day of 16, 2020.

STATE OF OREGON )  
 ) ss.  
County of ~~Klamath~~ )  
 Washington



This instrument was acknowledged before me on this Dec day of 16, 2020, by Monica Wellington.

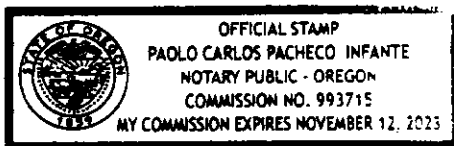
PUBLIC UTILITY EASEMENT

Paolo Pacheco  
Notary Public for Oregon

Monica Wellington  
Monica Wellington, Owner

STATE OF OREGON )  
 ) ss.  
County of ~~Klamath~~ Washington )

This instrument was acknowledged before me on this Dec day of 16, 2020, by Kurt Malmedal



Paolo Pacheco  
Notary Public for Oregon

Kurt Malmedal  
Kurt Malmedal, Owner

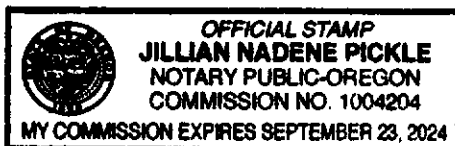
### ACCEPTANCE OF EASEMENT

Crescent Sanitary District does hereby accept the above-described Public Utility Easement this 11 day of December, 2020

Doris L. Allphin  
Doris Allphin, CSD Board President

STATE OF OREGON )  
 ) ss.  
County of ~~Klamath~~ Deschutes )

This instrument was acknowledged before on this 11 day of December, 2020, by Doris Allphin as CSD Board President of the Crescent Sanitary District.



Jillian Nadene Pickle  
Notary Public for Oregon

## AGREEMENT

**BETWEEN:** Crescent Sanitary District, (District)  
an Oregon municipal Corporation

**AND:** Monica Wellington and Kurt Malmedal (Owners)

**DATE:** December 11, 2020

### RECITALS

- A. Owners own real properties identified as tax lot 2409-030AC-00400, 2409-030AB-01300, 2409-030AC-00200, no address (Property).
- B. District is in the process of designing and constructing a new wastewater collection and treatment facility (Project).
- C. In order to complete the Project and ensure property in question has sewer services to support the Owners plans for future developments, the District must extend sewer lines through Owners' Property (Public Utility). Owners have agreed to grant District an easement across the above-identified Property within which District will locate sewer lines, subject to the terms of this Agreement.

**Now, therefore**, in consideration of the mutual terms, covenants, and conditions set forth herein, the parties hereto agree as follows:

### AGREEMENT

**1. Owners' Obligations.**

Upon execution of this Agreement, Owners agree to grant and convey to District, its successors and assigns, a perpetual easement of approximately thirty-six (36) feet, thirty (30) feet, and sixteen (16) feet in width across Owners' Property, with minor width variations along the easement for construction, periodic inspection, and required future repairs of the underground Public Utility, in the form and as more specifically described on the attached Exhibit A (Easement).

**2. Assumption of Risk.** Each party assumes the risk associated with its use of the Easement.

**3. District Costs.** District shall be solely responsible for all costs and expenses related to the initial construction and maintenance of the Sewer line.

4. **Mutual Indemnification.** Each party agrees to indemnify and hold harmless the other party from and against all claims, actions, damages, liabilities, and expenses (including attorney and other professional fees), judgments, penalties and fines paid, incurred or suffered in connection with the injury or death of any person, or the loss of, injury or damage to, or destruction of any property suffered by any third party arising from or related to the indemnifying party's use of the Easement, or Owner's property.
5. **Attorney Fees.** If suit, action or arbitration is brought either directly or indirectly to rescind, interpret, or enforce the terms of this Agreement, the prevailing party shall recover and the losing party hereby agrees to pay reasonable attorney's fees incurred in such proceeding, in both the trial and appellate courts, as well as the costs and disbursements.
6. **Survival.** This Agreement shall survive execution and recording of the Easement.
7. **Modification.** No modification of this agreement shall be valid unless it is in writing and is signed by all of the parties.
8. **Integration.** This agreement is the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained in this agreement. This agreement shall supersede all prior communications, representations, and agreements, oral or written, of the parties.
9. **Interpretation.** The paragraph headings are for the convenience of the reader only and are not intended to act as a limitation on the scope or meaning of the paragraphs themselves. This agreement shall not be construed against the drafting party.
10. **Severability.** The invalidity of any term or provision of this agreement shall not affect the validity of any other provision.
11. **Waiver.** Waiver by any party of strict performance of any provision of this agreement shall not be a waiver of or prejudice any party's right to require strict performance of the same provision in the future or of any other provision.
12. **Binding Effect.** Subject to restrictions in this agreement upon assignment, if any, this agreement shall be binding on and inure to the benefit of the heirs, legal representatives, successors, and assigns of the parties.
13. **Governing Law.** This agreement shall be interpreted and enforced according to the laws of the state of Oregon.
14. **Counterparts.** This agreement may be executed in multiple counterparts, each of which shall constitute one agreement, even though all parties do not sign the same counterpart.

15. **Exhibits.** All exhibits referred to in this agreement are incorporated by reference.
16. **Limitation.** This Easement is subject to all prior easements or encumbrances of record.

\*Exhibit A is not to scale and should only be used as a visual aid. Please see the written legal description for exact easement location.

### **SIGNATURES**

Crescent Sanitary District

By: Donis L. Allephier  
Title: Acting President  
Date: December 11, 2020

Owners:

By: Monica Wellington  
Monica Wellington

By: Kurt Malmadal  
Kurt Malmadal

# Exhibit A

