

2022-005236

Klamath County, Oregon



00299259202200052360080083

04/25/2022 03:22:06 PM

Fee: \$117.00

Returned at Counter

| Space above for Recorder's use | |
|---|---|
| After recording return to: | Send Tax Statements To: |
| * Crescent Water Supply & Improvement District P.O. BX 247 Crescent, OR 97733 | No Change Tax ID # * 27-1884155 BIN # 1409858-5 |

WATERLINE/WATER FACILITY EASEMENT

In consideration of the covenants and promises contained herein and other good and valuable consideration, the STATE OF OREGON, acting by and through its State Board of Forestry and the Oregon Department of Forestry (GRANTOR), grants to CRESCENT WATER SUPPLY AND IMPROVEMENT DISTRICT, an Oregon nonprofit corporation established under ORS Chapter 554 (GRANTEE), an exclusive easement located as follows on the real property (the "Property") of the GRANTOR:

A tract of land in the NE1/4 of Section 30, Township 24S, Range 9E, Willamette Meridian, Klamath County, Oregon, containing 2.42 acres, more or less, as more particularly described and depicted on Exhibit "A" which is attached hereto and incorporated herein,

hereafter referred to as the "Easement".

This Easement is subject to all prior easements or encumbrances of record and the following terms:

1. The sole purpose of this Easement is to allow for the installation, maintenance and use by GRANTEE of a new well, well housing, necessary related facilities and security fencing, for taking groundwater from the well for approved domestic water supply, services and distribution pursuant to GRANTEE's Articles of Incorporation and authorized water rights and permits approved by the Oregon Water Resources Department (OWRD), to connect to existing water supply lines immediately adjacent thereto, and to maintain a necessary fuel-free break area from structures within the easement. Nothing in this grant shall be construed to be a permit to appropriate water by the Oregon Department of Forestry. All rights to appropriate or beneficially use groundwater are subject to regulatory authorities administered by OWRD.

2. This Easement is personal to GRANTEE and may not be assigned or transferred by GRANTEE without the express written consent of GRANTOR. Any attempted assignment or transfer of this Easement without such consent shall be void and of no effect.
3. Subject to the conditions below, GRANTEE is permitted, at GRANTEE's discretion and sole cost, to construct a well and necessary structures and supporting facilities for groundwater extraction and distribution (including necessary control structures) as approved by Klamath County under conditional use permissions and applicable building codes, and to provide security fencing surrounding the site, together with a temporary construction easement in, about, and around areas on GRANTOR's lands to conduct establishment of such facilities.
 - a. GRANTEE shall observe and comply with all federal, state, and local laws and regulations which in any manner affect the activities of GRANTEE under this Waterline/Water Facility Easement, including but not limited to those relating to the lawful appropriation of water and permitting of groundwater extraction for domestic and municipal purposes, and the prevention, suppression and control of fire, and all valid orders of federal and state officials pertaining thereto.
 - b. GRANTEE shall identify any trees which will need to be felled prior to construction activities and shall obtain approval from the GRANTOR prior to felling and comply with any GRANTOR instructions concerning disposition of any trees cut pursuant to this Easement.
 - c. All excavated material and bare soils shall be seeded and mulched utilizing grass seed and straw mulch certified weed-free and approved by the GRANTOR. Applied mulch shall be a minimum of 2 inches deep and provide a uniform cover in the absence of any other more stringent State, County or local requirements.
 - d. GRANTEE shall provide evidence that the project is permitted under local comprehensive land use planning laws and regulation pursuant to OAR 629-020-0040, and shall provide a copy of final as-built plans to the Oregon Department of Forestry, Klamath-Lake District.
 - e. GRANTEE shall bury any water pipelines, electrical conduit, or other buried utilities (collectively "underground services") required by the plan permitted as referenced in paragraph 3.d, or necessarily required thereby, not less than 24 inches below the surface of the ground, provided however, that where said underground services are placed under, adjacent to, or through existing or planned roads and other such improvements, said underground services shall be buried to the necessary depth as to cause no interference with the use, construction, and maintenance of roads or other such improvements and must be certified by a registered professional engineer to withstand U-80 vehicle loading. GRANTEE shall furnish, install and maintain clearly visible warning signs with stakes or posts at least 24 inches high at not more than 100-foot intervals marking existing and newly installed underground services locations. GRANTEE is responsible for all maintenance, repair and replacement of the underground services and related facilities necessitated by ordinary wear and

tear or damage from any cause, including that arising directly or indirectly from the activities of GRANTOR, its members, officers, employees, permittees or licensees.

- f. Except upon express written approval by the GRANTOR, within 180 days of cessation of the site as a domestic/municipal water well site, the GRANTEE shall decommission and remove all structures, underground lines, fencing, and other supporting facilities from the Easement, and restore the area to its original condition at its sole cost and expense.
- g. The GRANTEE assumes all risk arising out of the use of the Easement and, notwithstanding any other provision herein, the GRANTOR shall have no liability to GRANTEE or third parties using the GRANTEE's municipal water, or with respect to the quality or quantity of water or condition of the water lines and treatment facilities.
- h. The GRANTEE shall be responsible for securing and making payment for all electric or other power used by GRANTEE's facilities. The GRANTOR shall not be responsible for continuity of electric service or power outages.
- i. GRANTEE's contractor(s) shall secure at their expense, and shall keep in effect during all periods of construction, repair and maintenance of the Easement facilities and supporting facilities, the following insurance coverages, in a policy or policies issued by an insurance company or companies authorized to do business in the State of Oregon. The issuing company or companies shall indicate on the insurance certificate(s) required by this section that the GRANTOR will be given not less than 30 days' notice of any cancellation, material change, or intent not to renew such policy. The coverage shall be as follows:
 - i. Commercial General Liability insurance covering personal injury and property damage in an amount not less than \$2,000,000 combined single limit per occurrence, with a contractual liability to include all contracts involving the work to be performed within the Easement.
 - ii. Automobile Liability insurance in an amount not less than \$2,000,000 combined single limit per occurrence. This coverage can be provided by combining the Automobile Liability protection with the Commercial General Liability policy.
 - iii. As evidence of the insurance coverages required by this Easement Amendment, GRANTEE shall furnish to the GRANTOR a certificate or certificates of insurance verifying all of the foregoing coverages, and naming the GRANTOR as an additional insured.
- j. GRANTEE, shall be solely responsible at its sole cost and expense for compliance all laws and regulations with respect to its and its agents and contractors' activities within the Easement, including, without limitation,

required public contracting laws, and federal and state laws concerning construction, environmental and occupational safety and health, and zoning and land use compliance.

- k. GRANTEE will fully pay for all materials joined or affixed to said Easement, and pay in full all persons who perform labor upon said Waterline Easement and right of way, and will not permit or suffer any mechanics' liens or materialmen's liens of any kind or nature to be enforced against said Easement for any work done or materials furnished thereon at GRANTEE's request.
- l. GRANTEE shall clear and maintain fuel-free break area surrounding all structures and within the limits of the Easement area, ensuring that brush and vegetation is cut to maintain a height less than twelve (12) inches in addition to other applicable land use laws and ordinances regarding fire siting standards for structures.

4. MISCELLANEOUS PROVISIONS:

- a. This Easement shall be subject to and governed by the laws of the State of Oregon. Any claim, action suit or proceeding (collectively, a "Claim") between the GRANTOR and GRANTEE that arise from or relates to this Easement shall be brought and conducted solely in the Circuit Court of Marion County for the State of Oregon; provided that, if a Claim must be brought in a federal forum, such claim shall be brought and conducted solely in the District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution or otherwise. By execution and acceptance of this Waterline Easement, GRANTEE consents to the personal jurisdiction of such courts
- b. If any term or provision of this Easement is held to be invalid, illegal or unenforceable by a court of competent authority, the offending term or provision shall be deleted and the remainder of the Easement shall not be affected by such invalidity, illegality, or unenforceability, but shall remain valid and enforceable to the fullest extent permitted by law.
- c. The failure of the GRANTOR to enforce any provision of this Easement shall not constitute a waiver by the GRANTOR of that provision or of any other provision of this Easement.
- d. No modification or amendment of this Easement or of any of its conditions or provisions shall be binding upon the parties unless in writing signed by both parties.
- e. The rights and privileges granted by this Easement shall not be assigned in any manner without prior written consent of GRANTOR. Provided, however, that

this provision shall not prevent assignment to trustees under the provisions of any indenture of mortgage or other security arrangements now or thereafter entered into by GRANTEE for the purpose of financing any or all of its operations.

- f. GRANTEE shall pay all taxes or assessments that may legally be charged on public lands which are levied against the property subject to this Easement, regardless of whether such taxes or assessments have been levied directly against the GRANTEE or GRANTOR by the assessing agency. In the event that GRANTEE fails to pay any such taxes or assessments, GRANTOR shall have the right to pay the taxes or assessments and recover such payments from GRANTEE. In such event, GRANTOR will bill GRANTEE for all taxes or assessments paid by GRANTOR and chargeable under this provision to GRANTEE. GRANTEE shall reimburse GRANTOR within 30 days from date billed. Payments received after thirty (30) days from the date billed will be subject to interest on the unpaid balance at the rate of 1-1/2% per month until paid in full.

GRANTOR:

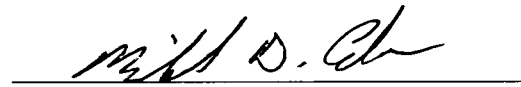
STATE OF OREGON, acting by and
through the Oregon Department of Forestry
on behalf of the Board of Forestry



Kate J. Skinner
Acting Division Chief
State Forests Division

GRANTEE:

CRESCENT WATER SUPPLY AND
IMPROVEMENT DISTRICT, an Oregon
nonprofit corporation under ORS Chapter 554



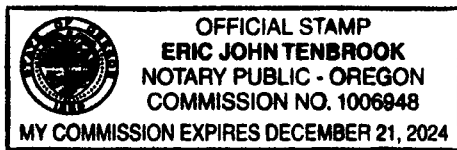
By: Mike Carlson
Its: Board President

ACKNOWLEDGMENTS ON FOLLOWING PAGE

ACKNOWLEDGMENTS

STATE OF OREGON)
)
County of Marion)

This instrument was acknowledged before me on this 24th day of March, 20 22, by
✓ Kate J. Skinner, as the authorized representative of GRANTOR.

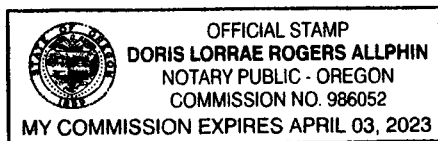


E. J. Tenbrook
Notary Public for Oregon

My Commission expires: 12-21-24

STATE OF OREGON)
)
County of Klamath)

This instrument was acknowledged before me on this 28 day of February, 20 22, by
Mike Carlson, as the Board President of the
CRESCENT WATER SUPPLY AND IMPROVEMENT DISTRICT, an Oregon nonprofit
corporation under ORS Chapter 554.



Doris L Allphin
Notary Public for Oregon

My Commission expires: 4-3-2023

EXHIBIT A

DESCRIPTION FOR WELL PROTECTION AND FUELS REDUCTION EASEMENT

A tract of land situated in the Southeast ¼ of the Northeast ¼ of Section 30, Township 24 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at a 5/8" iron rod marking the southeast corner of Parcel 2 of Land Partition 21-19; thence along the east line of said Parcel 2 North 00°17'44" East 49.28 feet; thence leaving said east line South 89°42'16" East 300.00 feet; thence South 00°17'44" West 400.00 feet; thence North 89°42'16" West 300.00 feet to the east line of Parcel 3 of said Land Partition 21-19; thence along said east line North 00°17'44" East 350.72 feet to the point of beginning; EXCEPTING THEREFROM those certain lands previously conveyed to the Crescent Water and Sewer Association in that deed recorded in Book M-66 at Page 12571 of the Klamath County Records.

Containing 2.42 acres, more or less.

3775-0101

