

After Recording Return To:

Santiam Water Control District  
284 E Water Street  
Stayton, Oregon 97383

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## WATERWORKS EASEMENT

### Parties

This easement (“Waterworks Easement”) is granted by \_\_\_\_\_ (“Grantor”), to the Santiam Water Control District, an Oregon Chapter 553 district (“Grantee”).

### Terms

Grantor grants and Grantee accepts this Waterworks Easement.

1. **Effective Date.** This Waterworks Easement is granted on the date of recording appearing above (“Effective Date”).
2. **Easement Type.** This Waterworks Easement is an easement-in-gross.
3. **Easement Duration.** This Waterworks Easement touches and concerns the land. This Waterworks Easement is perpetual unless subject to extinguishment by law or court order.
4. **Consideration.** Grantor has received financial payment of \$10.00 as consideration for the grant of this Waterworks Easement to Grantee.
5. **Property.** This Waterworks Easement burdens the property described in Attachment A – Property (“Property”).
6. **Easement Area.** Grantee may use the portion of the Property described or illustrated in Attachment B – Waterworks Easement Area (“Waterworks Easement Area”).
7. **Grantee Waterworks.** Grantee owns, operates, and maintains waterworks within the Waterworks Easement Area (“SWCD Waterworks”). SWCD Waterworks include all equipment and utilities related to the operation of SWCD Waterworks. Grantee may re-engineer, alter, and change the size and structural character of the SWCD Waterworks at the discretion of Grantee (e.g., Grantee may convert an open ditch to a pipeline and subsequently operate and maintain, repair, enlarge, and replace the pipeline).
8. **Easement Purpose.** The Waterworks Easement purpose includes uses reasonably related to accessing, constructing, inspecting, maintaining, repairing, enlarging, and replacing SWCD Waterworks (“Easement Purpose”). Maintenance activities conducted under the Easement Purpose typically include mowing, spraying, grading, tree removal, and all other activities related to Waterworks maintenance. Grantee may use the Easement Area for any use related to the Easement Purpose.

## 9. **Exclusive Easement.**

9.1. **Non-Interference:** The use rights granted by this Waterworks Easement are exclusive to Grantee. Grantor may use the Waterworks Easement Area for any use that does not interfere with the Easement Purpose. Grantor may not inhibit access to the Easement Area or interfere in any way with Grantee's activities related to the Easement Purpose.

9.2. **Interference:** Grantor may use the Waterworks Easement Area for an interfering use (e.g., fencing, installing impervious surface area, crossing) only after requesting, obtaining, and remaining in compliance with an encroachment license issued by Grantee ("SWCD Encroachment License").

10. **Liability.** Grantor is liable for any damages to SWCD Waterworks caused by Grantor. Excluding the Easement Area, Grantee will restore Property area damaged by Grantee's activities. Grantee will take reasonable efforts to schedule regular maintenance activities to minimize crop damages however, Grantee is not liable for crop damages.

11. **Encumbrances and Exceptions.** Grantor represents that Grantor owns the Property and that Grantor may lawfully grant this Waterworks Easement subject to recorded liens, encumbrances, and exceptions.

12. **Not a Public Grant.** This Waterworks Easement does not convey a use right to any third party.

13. **Indemnification.** To the extent permitted by law, Grantee will indemnify and defend Grantor against all claims and against all costs, losses, damages, liens, liabilities, obligations, and attorney fees arising out of Grantee's exercise of use rights granted by this Waterworks Easement except for those arising out of the negligence or willful misconduct of the Grantor.

14. **Subordination.** If Grantee intends to seek a subordination agreement from Grantor's encumbrance holders, Grantee will provide copies of recorded encumbrances and subordination agreements for signature by Grantor's encumbrance holders.

15. **Recording.** Grantee will record this Waterworks Easement and provide Grantor with a copy of the recorded Waterworks Easement instrument.

16. **Remedies.** Upon a default under this Waterworks Easement, the non-defaulting party is entitled to seek all remedies available under this Waterworks Easement and under Oregon law and equity.

17. **Notice.** The parties will consider all notices related to this Waterworks Easement to be delivered and received when delivered in-person, delivered to the party's registered agent, delivered to another address previously designated in writing by the receiving party, or delivered by another method reasonably calculated to give the receiving party notice as required for the lawful service of summons and complaint in Oregon.

18. **Choice of Law.** This Waterworks Easement is formed under and controlled by Oregon Law.

19. **Jurisdiction & Venue.** Oregon State Courts have exclusive jurisdiction over any dispute arising under this Waterworks Easement. Venue for all legal actions arising under this Waterworks Easement lies in Marion County, Oregon.

20. **Attorney's Fees.** In any litigation, suit, or action arising out of this Waterworks Easement, or to interpret or enforce any term or condition of this Waterworks Easement, the prevailing party is entitled to recover from the other party, reasonable attorney's fees, costs, and expenses at trial and on appeal.

[Signature pages follow]



**Attachment A - Property**