

For recording stamp

EASEMENT

THIS AGREEMENT dated this ___ day of _____, 2004, between

SWALLEY IRRIGATION DISTRICT (GRANTEE),

hereinafter referred to as "Swalley," located at 64672 Cook Avenue, Suite One, Bend, Oregon 97701, Telephone: (541) 388-0658, Fax: (541) 389-0433 and

XYZ COMPANY (GRANTOR)

hereinafter referred to as "Owner".

WHEREAS, Owner has an irrigation canal or lateral on, over, and across land owned by Owner and described herein as Exhibit "A" to this agreement, for the delivery of irrigation water rights; and

WHEREAS, Owner desires to make improvements on the land as described in "Exhibit A" and conveys an easement or right of way to Swalley for operation and maintenance of relevant infrastructure; and

WHEREAS, Swalley has agreed to allow Owner to make such change according to the engineering documentation submitted to Swalley,

Now, therefore, in consideration of the covenants and conditions set forth herein,
THE PARTIES AGREE AS FOLLOWS:

I. GRANT OF EASEMENT:

Swalley hereby gives permission to Owner to alter the Swalley canal to replace it with a buried pipeline in accordance with Swalley's review and approval of the plans and specifications attached hereto as Exhibit "B", and by this reference incorporated herein, Owner shall provide to Swalley a centerline description of the "as built" location of the pipeline and a 50 foot easement from the centerline of the pipeline out to each side, for a total of 100', in accordance with the specifications set forth in Exhibit "B" to this agreement.

II. CONDITIONS OF EASEMENTS:

1. The Owner agrees to notify Swalley at such time as construction shall commence. At such time as the canal relocation has been completed, Swalley hereby reserves the right to require Owner to make such changes as it shall deem necessary to ensure that the construction has been in accordance with the attached plans and specifications and provides for adequate water delivery.
2. Owner agrees not to install or build any permanent structures on, over, and across the

- irrigation pipeline or Swalley easement as located.
3. Owner agrees to indemnify and hold Swalley harmless for any and all claims or damages arising out of the construction necessary or operation of the pipeline after completion.
 4. Owner agrees not to interfere with the ability of Swalley to deliver irrigation water as a result of the construction described above.
 5. Owner agrees that any construction of infrastructure in Swalley canals or laterals shall be executed by contractors that are bonded, licensed, insured, certified and meet professional standards of the specific work for which they are hired.
 6. Owner agrees that in the event Swalley infrastructure, including but not limited to headgates, flumes, measuring stations, radio transmission devices, weirs, diversion boxes, or culverts need to be removed, moved, or replaced will be at the Owner's expense and to Swalley's specifications and approval.
 7. Owner agrees that in the event of pipeline or culvert installation, all backfill must be engineered and inspected by professional engineers with as-built information provided after completion.
 8. In the event such construction involves a utility crossing under a canal, Owner agrees to comply with the "Underground Utility Canal Crossing" policy.
 9. Owner acknowledges that Swalley's normal irrigation season is from April 1st to and through October 31st. Further, that Swalley makes short winter runs during the remainder of the year. It is Owner's responsibility to obtain stock run schedules and understand that these dates may change unexpectedly. If construction occurs during delivery of water, then the Owner agrees to compensate all Swalley customers affected by interference and any costs incurred by SID staff and services.
 10. This agreement shall run with the land as described as Exhibit A to this agreement.
 11. In the event any suit or action is brought to collect any of said costs or to enforce any provision of this agreement, the losing party agrees to pay such sum as the trial court may adjudge reasonable as attorney's fees to be allowed the prevailing party in such suit or action and in the event of any appeal in such suit or action, the losing party agrees to pay such further sum as the appellate court shall adjudge reasonable as the prevailing party's attorney's fees.
 12. This instrument shall bind and inure to the benefit of, as the circumstances may be, not only the immediate parties hereto but their respective executors, administrators, successors in interest and assigns as well.
 13. It is understood that either party hereto may be more than one individual or a corporation; therefore, the parties hereto agree that if the context and the circumstances so require, the singular as used herein shall mean and include the plural, the masculine pronoun shall mean and include the feminine and the neuter and that generally all grammatical changes shall be assumed, made or implied so that the provisions of this agreement shall apply equally to individuals and to corporations.
 14. All Swalley fees must be paid in full before construction begins.
 15. If easement is for a bridge or culvert, the addendum "Free Standing Bridge or Culvert Installation" must be attached.
 16. An administrative fee of \$100 is payable for recording and other costs.

For Swalley Irrigation District

For Owner:

Janet L. Lee, Manager
Swalley Irrigation District

State of Oregon,
County of Deschutes

Personally appeared Janet L. Lee, Swalley Irrigation District Manager, and acknowledged the foregoing instrument to be her voluntary act and deed.

Dated _____

Before Me: _____

My commission expires: _____

OWNER _____

State of Oregon
County of Deschutes

Personally appeared the _____ representing _____, and acknowledged the foregoing instrument to be his/her voluntary act and deed.

Dated _____

Before me: _____

My commission expires: _____