

**GRANT OF RIGHTS**

**GRANT OF RIGHTS TO CONDUCT ECOLOGICAL ENHANCEMENT  
AND  
STEWARDSHIP ACTIVITIES**

BE IT KNOWN, THAT           (name from deed)          , the Grantor herein does hereby covenant that the Grantor is the owner of the following referenced real property in Lane County, Oregon to-wit:

**That parcel of land conveyed to Grantor by that certain \_\_\_\_\_ deed \_\_\_\_\_ recorded on \_\_\_\_\_ date \_\_\_\_\_, as Instrument Number \_\_\_\_\_, Lane County Deeds and Records, Lane County, Oregon.**

The undersigned, as Grantor, does hereby grant unto the CITY OF EUGENE, LANE COUNTY, OREGON, by and through the EUGENE WATER & ELECTRIC BOARD, 500 E. 4th Avenue, Eugene, Oregon 97401 (EWEB), as Grantee, the exclusive right to conduct ecological enhancement, protection and stewardship activities on the Property once the GRANTOR approves a Management Plan (Exhibit B) developed by the GRANTEE. Thereafter all variances to the Management Plan are subject to approval by the GRANTOR in accordance with this Agreement. Said easement being more particularly described as follows:

A Strip of land \_\_\_\_\_ (legal description of the Ecological Enhancement Area)

The enrolled area is a total of \_\_\_\_\_ acres. This includes \_\_\_\_\_ acres designated for protection and eligible for compensation per Section 2 below.

**The approximate location of the above-described Ecological Enhancement Area is shown on the attached Exhibit A.**

In addition to the agreements herein contained, there is [write out dollar amount] Dollars (\$X,XXX) consideration for the XXX acres designated for protection. (See Section 2)

This Agreement shall be effective on the date it is recorded in the deed records of Lane County, Oregon and shall terminate \_\_\_\_\_ (15, or 20) years from that recording date.

GRANTOR represents it is the sole owner(s) in fee simple of the real property located at \_\_\_\_\_, County of Lane, State of Oregon, legally described in Exhibit A attached hereto (the "Property"). The GRANTOR is hereby agreeing to protect and/or restore the Conservation Values of the Riparian Corridor in exchange for the consideration set forth herein.

The Parties agree a portion of the Property (the "Riparian Corridor") consists of forested land adjacent to the McKenzie River or its tributaries and is within the Pure Water Partners (PWP) Program boundary (as shown in Exhibit A). The Riparian Corridor is more fully defined in two reports prepared by \_\_\_\_\_ and attached hereto as Exhibit B (Management Plan) and Exhibit C (Property Assessment Report). To adapt to changing conditions over time, the Management Plan may be modified and amended as agreed by both parties.

In consideration for the protection of the Riparian Corridor, GRANTOR will be compensated from the Conservation Fund at a lump sum of \$\_\_\_\_\_. (See Section 2)

EWEB accepts this conveyance of real property or easement. Approved by: \_\_\_\_\_  
Title: \_\_\_\_\_

After recording send document to:  
EUGENE WATER & ELECTRIC BOARD

Map # TL  
Ease.DOC

This Riparian Corridor across the Property will be subject to the conservation restrictions made pursuant to this Agreement. No other portion of the Grantors' Property will be subject to the covenants contained herein. The Riparian Corridor possesses ecological values that are of great importance to EWEB and the GRANTOR. These include providing long-term stream bank stability; sediment entrapment and erosion control; increased water quality through filtration and pollutant capture; flood mitigation; reduced stream evaporation and thermal pollution; fish and wildlife habitat protection; and other ecological services associated with a healthy Riparian Corridor. These values are referred to herein as the "Conservation Values" of the Riparian Corridor.

In consideration of the following, the GRANTOR hereby voluntarily agrees to abide by the terms and conditions set forth herein for the purpose of conserving the Conservation Values of the Riparian Corridor.

### **1. Purpose and Term**

It is the purpose of this Agreement to ensure that the Riparian Corridor, commencing on the execution of this Agreement, will be maintained and improved for a \_\_\_\_-year period in a natural, open space and scenic condition and to prevent any use of the Riparian Corridor that will impair or interfere with the Conservation Values described herein. This Agreement goes with the Property if the Property itself, or any interest affecting the Riparian Corridor, is to be transferred by the GRANTOR to a third party.

### **2. Compensation to Grantor**

In consideration for the *protection* of the Riparian Corridor, GRANTOR will be compensated from the Conservation Fund at a rate of \$50 per acre of land within the Riparian Corridor. As shown in Exhibit A, \_\_\_\_ acres will be enrolled for protection status and eligible for compensation for a total lump sum payment of \$\_\_\_\_\_ (\$50 x \_\_\_\_ acres x \_\_\_\_ years and application of 2% discount rate over Agreement term = \$\_\_\_\_\_) to cover the duration of this Agreement. This lump sum will be paid after 2 years of this agreement are completed or the GRANTOR waives their rights to terminate the Agreement within the first two years as provided in Section 8.

The Conservation Fund is a fund managed and administered by Cascade Pacific Resource Conservation & Development doing business as Pure Water Partners (a 501c(3) organization), which accepts funding from multiple organizations, including EWEB, for the purposes of protection payments and/or restoration project funding for landowners.

EWEB supports establishment of Conservation Easements with willing landowners. In the event that the GRANTOR decides to establish a permanent Conservation Easement to protect these critical areas for future generations, the GRANTOR could be entitled to compensation for the value of the property rights put in the Conservation Easement. If GRANTOR has already received protection payments covering the property proposed for a permanent Conservation Easement, the prior payments will be considered in establishing the value of the permanent Conservation Easement.

Compensation will be a lump sum cash payment, payable to the GRANTOR after 2 years of this agreement are completed or immediately if this GRANTOR waives the 2 year unilateral termination option period (see Section 8). The GRANTOR has the option of donating all or part of these funds to the Pure Water Partners 501c(3) organization in lieu of receiving a cash payment. Donated funds can be directed to support restoration projects and/or to support partner organizations working to restore and protect the McKenzie Watershed as part of the PWP Program (i.e., McKenzie Watershed Council, McKenzie River Trust, Upper Willamette Soil & Water Conservation District, and Cascade Pacific Resource Conservation & Development). The Conservation Fund's payment or receipt of donation for tax purposes will be provided to the GRANTOR by Cascade Pacific Resource Conservation & Development, doing business as Pure Water Partners.

In consideration for *restoration* of the Riparian Corridor, EWEB, and their authorized agents, will design the restoration work per Exhibit B, conduct actions that implement the approved restoration design, and maintain the restored Riparian Corridor during the term of this Agreement at no cost to the GRANTOR. Restoration work will be funded from the Conservation Fund and will not commence until project funding is secured.

### **3. Rights of EWEB**

EWEB, and their authorized agents, are granted the right during the term of this Agreement to enter upon the Property at reasonable times in order to monitor the Riparian Corridor and GRANTORS' compliance

with the terms of this Agreement in accordance with Exhibit B (Management Plan) and Section 6. EWEB shall provide GRANTOR with reasonable written notification prior to inspection or provide notice through other mutually agreeable arrangement, and shall not unreasonably interfere with GRANTORS' quiet use and enjoyment of the Property.

EWEB, and their authorized agents, are granted during the term of this Agreement the right to conduct, with reasonable prior notice to GRANTOR, efforts to protect the Conservation Values of the Riparian Corridor, including removal of invasive non-native riparian vegetation, installation of native plants, and other activities associated with maintaining or improving the Conservation Values of the Riparian Corridor in accordance with Exhibit B (Management Plan). The right of EWEB to conduct such protective and restorative efforts is discretionary and does not create an obligation to take action enforceable by GRANTOR or third parties.

The scope of these agreements do not grant general public access to the Riparian Corridor and are not to be construed as a dedication providing any right of access to the general public over any portion of the Riparian Corridor.

Any environmental attributes, including but not limited to environmental or carbon credits, resulting from the conservation management of the Riparian Corridor shall be owned by EWEB.

#### **4. Prohibited Uses**

Any activity on or use of the Riparian Corridor inconsistent with the purpose of this Agreement or terms of the Management Plan, Exhibit B, is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, except as permitted in Section 5 or specified in the Management Plan (Exhibit B) to accommodate site specific factors:

The removal of any trees or other native vegetation not considered a hazard to life and/or property within the Riparian Corridor unless specified in the Management Plan (Exhibit B); construction of structures; addition of impervious surfaces; introduction of non-native invasive plant species as defined in ORS § 570.755, or any plant listed by the USDA as an Oregon State-Listed Noxious Weed<sup>1</sup>; waste disposal; direct application of pesticides (unless indicated as necessary in Management Plan – Exhibit B); and motorized vehicle use other than as necessary to support the work and activities specified in the Management Plan (Exhibit B).

GRANTOR reserves any use of, or activity within, the Riparian Corridor that is not inconsistent with the purpose of this Agreement or terms of the Management Plan, Exhibit B, and that is not prohibited herein. The removal of trees or other native vegetation that is necessary due to a hazard or potential hazard to life and/or property within the Riparian Corridor will be determined by the GRANTOR. Removal of trees or other native vegetation within the Riparian Corridor not deemed a hazard to life and/or property by the GRANTOR will not be allowed without the prior consultation with EWEB or its authorized agents, unless specified in the Management Plan (Exhibit B).

#### **5. Reserved Rights**

GRANTOR reserves any use of, or activity within, the Riparian Corridor that is not inconsistent with the purpose of this Agreement or terms of the Management Plan, Exhibit B, and that is not prohibited herein. Without limiting the generality of the foregoing, GRANTOR specifically reserves the following uses and activities:

- (a) *Emergencies.* The right to undertake activities necessary to protect public health, property improvements, or human safety, or which are actively required by and subject to compulsion of any governmental agency with authority to require such activity.
- (b) *Recreation.* The right to use the Riparian Corridor for passive, non-motorized recreation, as long as such recreational activities are not inconsistent with the purpose of this Agreement.

Other more specific rights of use within the Riparian Corridor by the GRANTOR are specified in the Management Plan (Exhibit B) to accommodate site specific factors.

#### **6. Compliance**

EWEB incurs damages when GRANTOR is out of compliance with this Agreement. If EWEB determines that the GRANTOR is in violation of the terms of this Agreement or that a violation is threatened, EWEB shall give written notice to GRANTOR of such violation and seek corrective action sufficient to cure the violation. In the event of failure by GRANTOR to comply with the terms of this Agreement after given sufficient notice and 60 days, GRANTEE may require compliance and GRANTOR will be liable for:

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<sup>1</sup> Available at <http://plants.usda.gov/java/noxious?rptType=State&statefips=41>

(a) If GRANTOR has acres under protection, reimbursement for any payments that have been made from the Conservation Fund.

(b) Cost for recording this agreement with the County and subsequently vacating (\$750)

In the event GRANTOR is required to refund compensation under this Section, GRANTEE shall have the option of executing and recording a lien secured by the Property in favor of EWEB, or its assignee, for the amount due.

Nothing contained in this Agreement shall be construed to entitle EWEB to bring any action against GRANTOR to abate, correct, or restore any condition on the Riparian Corridor or to recover damages for any injury to or change in the Riparian Corridor resulting from causes beyond GRANTORS' control, including, without limitation, fire, flood, storm, and earth movement, nor shall GRANTOR be required to take steps to abate or mitigate injury to the Riparian Corridor resulting from such causes.

### ***7. Liability for Damages***

EWEB will be responsible for damage to persons or property subject to the limitations and process established under the Oregon Tort Claims Act (ORS 30.260-30.300) and only to the extent caused in whole or in part by the negligent acts, errors or omissions of EWEB, its contractors, agents or assigns. GRANTOR shall be responsible for damage to persons or property to the extent that such damage was caused by the negligent acts, errors, or omissions of GRANTOR, their contractors, agents, or assigns. All work shall be performed in accordance with the Management Plan (Exhibit B). This indemnity obligation will survive completion or termination of this agreement.

### ***8. Termination of Agreement***

During the first two years measured from execution of this Agreement, the GRANTOR may unilaterally terminate the Agreement upon written notice. If the Agreement continues beyond two years, this Agreement may only be terminated with the written concurrence of all Parties or upon financial exhaustion of the Conservation Fund. Upon termination of the Agreement the parties will cooperate to file appropriate documents necessary to clear title of the Grant of Rights to Conduct Ecological Enhancements and Stewardship Activities or appropriate assignment of rights.

GRANTEE may terminate this Agreement prior to the scheduled termination date in the event of a change in available funding in the Conservation Fund or business related regulatory constraints. Notice of such termination must be provided in writing at least one (1) year prior to the early termination date.

If GRANTOR is noncompliant and EWEB is not able to obtain corrective action from the GRANTOR per Section 6, EWEB can terminate agreement as necessary.

### ***9. Notice of Transfer of Property by Owners***

Anytime the Property itself, or any interest affecting the Riparian Corridor, is to be transferred by the GRANTOR to a third party, the GRANTOR shall notify EWEB in writing 30 days prior to the transfer. GRANTOR shall present the terms of this Agreement as amended or as recorded in the deed record with Lane County to the Buyers.

### ***10. Process for Changing Management Plan***

To adapt to changing conditions over time, the Management Plan (Exhibit B) may be modified and amended as agreed by both parties. The process to enact changes includes either party notifying the other of need for desired changes to the Management Plan in writing. Once the changes are agreed upon by both parties, the revised plan will become Exhibit B with a cover memo highlighting the changes made and signed by both parties.

### ***11. Interpretation***

This Agreement shall be interpreted under the laws of Oregon, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.

### ***12. Effect of Change in Law***

In the event a law is enacted during the time this Agreement is in effect that would materially change the terms of this Agreement, EWEB may require that GRANTOR elect between acceptance of modifications to this Agreement consistent with the provisions of such statute or termination of this Agreement.

**13. Severability**

If any provision of this Agreement is found to be invalid, illegal or unenforceable, that finding shall not affect the validity, legality or enforceability of the remaining provisions.

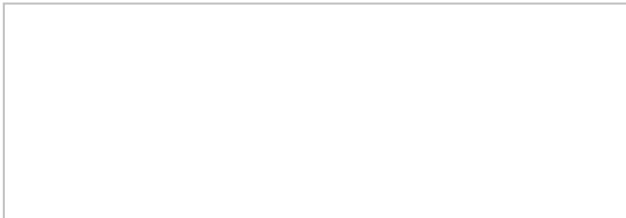
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IN WITNESS WHEREOF, the undersigned have executed this instrument the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

GRANTOR:

STATE OF OREGON        )  
                                          )  
COUNTY OF LANE        )

On this \_\_\_\_ day of \_\_\_\_\_, 2017, before me personally appeared the within named \_\_\_\_\_ known to me to be the identical individual described herein and who executed the within instrument freely and voluntarily.



\_\_\_\_\_  
Notary Public - Oregon