

AGENDA ITEM FOR ADMINISTRATIVE MEETING (X) Discussion only
() Action

FROM (DEPT/ DIVISION): County Counsel

SUBJECT: Pipeline Easement

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| <p>Background:</p> <p>A portion of the planned ordnance pipeline will cross property owned by N & C Land LLC. An easement has been negotiated with the property owners and it is before the Board for review and approval.</p> | <p>Requested Action:</p> <p>Approve terms of easement, including payment, and authorize signing of agreement</p> |
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ATTACHMENTS: Proposed Pipeline Agreement

*****For Internal Use Only*****

Checkoffs:

- () Dept. Head (copy)
- () Human Resources (copy)
- (X) Legal (copy)
- () (Other - List:)

To be notified of Meeting:

Needed at Meeting:

Scheduled for meeting on: July 6, 2022

Action taken:

Follow-up:

PIPELINE EASEMENT

This Easement is executed by N & C LAND LLC, (“Grantor”) and UMATILLA COUNTY, a political subdivision of the State of Oregon (“Grantee”).

Recitals

Grantor owns fee title to the parcels of land described in Exhibit A. Grantee owns or is obtaining an interest in up to 45 cfs of capacity of Columbia River water, to be pumped from the river using a new pipeline over and across Grantor’s property to the Umatilla Army Chemical Depot or other location. In connection with the development of the water pipeline, Grantee has requested Grantor to grant an easement for the proposed Ordnance waterline pipeline from the across the property described in Exhibit A.

Grant

Therefore, in consideration of the premises and other valuable consideration, the receipt and sufficiency of which are acknowledged, Grantor and Grantee agree as follows:

1. **Grant of Easement.** Grantor grants to Grantee, for the benefit of the Grantee and its successor and assigns, a perpetual, exclusive easement (the “Easement”) over, under and across the property owned by and under the control of Grantor described in Exhibit A (“Grantor Tract”), at a width of 100 feet. The pipeline will be along a certain route, burdening a certain area, which will be determined following construction of the pipeline. The size of the pipeline will be at least 42 inches in width. Grantee shall have, and is granted, all other rights and benefits that are necessary for the full enjoyment, or use of this Easement, including the right of ingress and egress over and across the Grantors property, as is reasonably necessary for the installation, operation, maintenance, repair, and replacement of Grantee’s water pipeline. In the event permits are necessary for the use of the property, this document allows Grantee to file for and obtain such permits on behalf of Grantor.
2. **Purpose.** The Easement will be used solely for the purposes of constructing, using and maintaining a water pipeline from the pump station and over and across the Grantor’s property to the Umatilla Army Chemical Depot. The Easement and pipeline may be used by Grantee, its successors and assigns, and the tenants, invitees, agents, and employees of Grantee and such successors (collectively, the “Users). The pipeline includes buried pipeline and related valve facilities, air relief valves and electrical power, and also water from vents and blow out values.
3. **Easement Area.** During the construction stage, the easement includes use of the property for surveying, planning, siting, staging and construction and replacement of the pipeline. During the construction stage, the area of the property subject to

this pipeline easement is one hundred feet in width, and include a 30-foot access easement to the easement area for ingress and egress. Following construction, the area of the property subject to this pipeline easement will be for the operation, inspection and maintenance of the pipeline.

4. **Exceptions.** The grant of the Easement is made subject to all exceptions to title on file or of record in the Official Records of Umatilla County, Oregon as of the date of the recording of this document.

5. **Grantor Use.** Neither party shall place or allow others to place above-ground structures, barriers, buildings, or other permanent structure in the Easement Area other than roadway surfaces. Grantor reserves the right to install utilities, cables, landscaping, signage, concrete and asphalt surfaces, and other improvements in the Easement Area from time to time, together with the right to grant to third parties any of such reserved rights, as long as such use does not unreasonably interfere with Grantee's permitted uses of the Easement. Grantor can use the Easement Area for uses associated with normal farming practices, and Grantee shall place any aboveground improvements in a place to minimize impact on Grantor's farming operation.

6. **Maintenance.** Grantee will, at its sole cost and expense, will maintain and repair the pipeline in a good order and condition, and repair any damage to the pipeline caused by any Users. Should the Grantee fail to correct any deficiency in its compliance with such repair obligation (an "Uncured Deficiency") prior to the expiration of 30 days after the effective date of notice of such Uncured Deficiency from Grantor, then Grantor, at its option (without any obligation to do so), may correct the Uncured Deficiency for the account of Grantee, who will reimburse Grantor for all expenses incurred by Grantor in curing such default. Grantor will have no obligation to maintain or repair the Easement Area, and Grantee and any parties claiming by, through, or under Grantee will be deemed to have elected to use the Easement at their sole risk.

7. **Indemnity; Attorney Fees.** To the extent allowed and limited by the Oregon Constitution and the Oregon Tort Claims Act, Grantee will indemnify and hold Grantor harmless from and against all claims, damages, losses, causes of action, costs, and expenses (including, without limitation, attorney fees), which may be asserted against or incurred by Grantor as a result of any act or omission of Grantee or its agents, contractors, employees, tenants, or invitees related to the use of the Easement Area by any Users.

8. **Successors.** This Easement runs with the land and will be binding on, and inure to the benefit of, the owners of the Grantor Tract and the Grantee and their respective heirs, successors, and assigns. Grantee may assign its interest to another public entity without consent from Grantor.

9. **Amendment.** This Agreement may only be amended by written instrument executed by the then current owners of the Grantor and Grantee Tracts.
10. **No Partnership.** None of the terms or provisions of this Easement will be deemed to create a partnership between or among the parties, nor will it cause them to be considered joint venturers or members of any joint enterprise. This Agreement is not intended nor will it be construed to create any third-party beneficiary rights in any person who is not an owner of the Grantee or Grantor Tract.
11. **Consents.** Whenever the consent or approval of a party is required to be given hereunder, such consent or approval will not be unreasonably withheld, delayed, or conditioned unless the provision in question expressly stipulates another standard of approval.
12. **Notices.** Any notice required or permitted by this Easement must be in writing and given by delivering the same in person to the recipient or by sending the same by registered or certified mail, return receipt requested, with postage prepaid, to the address of the Grantor or Grantee, as applicable, as shown on the current records of the tax assessor for Umatilla County, Oregon.
13. **Enforcement.** Each party shall have all remedies available at law and equity for enforcement of this agreement. A party shall be in default under the terms of this easement and agreement if the party fails to cure a breach of any term of this document within thirty days after written notice specifying the breach with reasonable particularity.

Executed to be effective as of the ____ day of _____, 2022.

GRANTOR:
N & C Land, LLC

GRANTEE:
Umatilla County

By: _____
Name: _____
Title: _____

By: _____
Name: John M. Shafer
Title: Chair, Board of Commissioners

Exhibits:

- A Grantor Property
- B Easement Area
- C Pipeline

STATE OF OREGON)
) ss.
County of Umatilla)

This instrument was acknowledged before me this ____ day of _____,
2022, by _____, as _____ of _____, a
_____, on behalf of the _____.

Notary Public for Oregon
My commission expires: _____

STATE OF OREGON)
) ss.
County of Umatilla)

This instrument was acknowledged before me this ____ day of _____, 2022,
by John M. Shafer, as Chair, Board of Commissioners, on behalf of the Umatilla County.

Notary Public for Oregon
My commission expires: _____

EXHIBIT A
N & C LAND PROPERTY

Umatilla County Tax Lot 5N27-3301

That portion of the following described property lying in Section 13, Township 5 North, Range 27: Beginning at the Southeast corner of said Section 13; thence West along the South line of said Section 13, a distance of 3,240 feet to the true Point of Beginning for this description; Thence North at right angles to a point on the southerly line of the West Extension Irrigation Canal; Thence southwesterly along the southerly line of said Canal to approximately 12.5 feet West of the center line of that certain easement contained in Land Sale Contract from Ray Dunn and William McClannahan to C & B Livestock, Inc., recorded in Book 331, Page 21, Deed Records; Thence South 8° 52' 09" East, parallel to and 12.5 feet West of said center line and along said West line, if extended, southerly a distance of 830 feet, more or less, to a point on the North line of that tract of land in Section 24, conveyed to Oregon Potato, Inc., by Deed recorded in Book 339, Page 163, Deed Records; Thence East along North line a distance of 900 feet, more or less, to a point 3,240 feet West of the East line of Section 24; Thence North a distance of 710 feet, more or less, to a point on the North line of said Section 24, said point also being on the South line of said Section 13, and the True Point of Beginning.

Umatilla County Tax Lot 5N27-24B-200

That portion of the following described property lying in Section 24, Township 5 North, Range 27: Beginning at the Southeast corner of said Section 13; thence West along the South line of said Section 13, a distance of 3,240 feet to the true Point of Beginning for this description; Thence North at right angles to a point on the southerly line of the West Extension Irrigation Canal; Thence southwesterly along the southerly line of said Canal to approximately 12.5 feet West of the center line of that certain easement contained in Land Sale Contract from Ray Dunn and William McClannahan to C & B Livestock, Inc., recorded in Book 331, Page 21, Deed Records; Thence South 8° 52' 09" East, parallel to and 12.5 feet West of said center line and along said West line, if extended, southerly a distance of 830 feet, more or less, to a point on the North line of that tract of land in Section 24, conveyed to Oregon Potato, Inc., by Deed recorded in Book 339, Page 163, Deed Records; Thence East along North line a distance of 900 feet, more or less, to a point 3,240 feet West of the East line of Section 24; Thence North a distance of 710 feet, more or less, to a point on the North line of said Section 24, said point also being on the South line of said Section 13, and the True Point of Beginning.

Umatilla County Tax Lot 5N27-501

All that portion of Section 24, Township 5 North, Range 27, lying and being South of the following described line: Beginning at a point 500 feet South of Northeast corner of said Section 24; thence West and parallel to the North line of said Section 24, a distance of 200 feet; thence North at right angles a distance of 500 feet to a point on the North line of said Section 24; thence West along the North line of said Section 24, a distance of 2240 feet; thence South at right

angles a distance of 500 feet; thence West and parallel with the North line of said Section 24, a distance of 800 feet ; thence South at right angles a distance of 200 feet; thence West at right angles a distance of 1,690 feet ; thence North at right. angles a distance of 325 feet ; thence West at right angles 200 feet; thence South at right angles a distance of 125 feet; thence West at right angles 150 feet, more or less, to a point on the West line of said Section 24.

All being East of the Willamette Meridian, Umatilla County , Oregon .

**EXHIBIT B
EASEMENT AREA**

The easement will be for a width of 100 feet over, under and across Grantor's property and the area described in Exhibit A. The exact location of the easement will be determined by an as-built survey of the constructed pipeline to be completed and recorded within 90 days of project completion. The general location of the pipeline is set out in Exhibit C.

EXHIBIT C

APPENDIX

