

APPENDIX D

Standard Easement Form

Forms in this appendix are sample model documents only, included for convenience of reference by developers. The documents are subject to modification by the City to address project specific conditions (as required by the Public Works Director, the City Engineer or the City Attorney).

For easements from a developer or property owner to the City, the easement legal description and exhibit map for the proposed easement shall be submitted to the City for review and approval. Once approved, the City will attach the legal description and exhibit map to the appropriate easement form, and it will be returned to the developer for execution and recording at the County. A photocopy of recorded easements documents must be returned to the City.

After Recording, Return To:

City of Silverton
306 Water Street
Silverton, Oregon 97381

Tax Statements

No Change Requested

PUBLIC UTILITY EASEMENT

_____ (“Grantor”), for the true consideration for this conveyance consists of other property or other value given or promised, (ORS 93.030) paid, does hereby grant unto the City of Silverton (“Grantee”), a permanent, non-exclusive public utility easement (“Easement”) over, across, and through the real property described in Exhibit A and depicted in Exhibit B (“Easement Area”) for the use and benefit of public utility companies furnishing electric power, natural gas, communication, and cable television service in accordance with the conditions and covenants as follows:

The permanent easement shall include the right, privilege, and authority to Grantee and such public utilities to excavate for, and to construct, build, install, lay, patrol, operate, maintain, repair, replace, and remove underground sanitary sewer, storm drain, or water pipelines; electric power, transmission, and supply cables; natural gas pipelines; and cable television and communication lines with all appurtenances incident thereto or necessary therewith, including above-ground valve boxes, fire hydrants, or manholes, in, under, and across the said premises, and together with the right of Grantee and utility owners to place, excavate, replace, repair, install, maintain, operate, inspect, add to the number of and relocate such utilities and necessary appurtenances, and make excavations therefor from time to time, in, under, and through the above-described premises within said easement, and to cut and remove from said easement any

tress and other obstructions which may endanger the safety or interfere with the use of said utilities, or appurtenances attached to or connected therewith; and the right of ingress and egress to and over said above-described premises at any and all times for the above purposes; and for doing anything necessary, useful, or convenient for the enjoyment of the easement hereby granted. No building shall be constructed over the easement, and no earthfill or embankment shall be placed within this easement, nor over any utility fixture therein without a specific written agreement between affected utility owners who may be beneficiaries of this easement, and Grantor, successors, or assigns. Should such specific agreement be executed, Grantee will set forth the conditions under which such fill or embankment may be placed, including a stipulation that all risks of damage to the utilities shall be assumed by Grantor, successors, or assigns.

Grantee and each utility owner beneficiary of this easement, upon the initial installation, and upon each and every occasion that the same be repaired, replaced, renewed, added to, or removed, shall restore the premises of Grantor, and any improvements disturbed by the work, to as good condition as they were prior to any such installation or work, including the restoration of any topsoil and lawn.

The parties further agree as follows:

1. Reserved Rights. Grantor shall retain the right to access, use, and enjoy the Easement Area for all purposes not inconsistent with the rights granted to Grantee herein. Neither party's use of the Easement Area in accordance with this Easement shall materially interfere with the other party's use of the Easement Area.
2. Construction, Repair and Maintenance. Grantee shall be responsible for the construction, installation, maintenance, and repair of any utilities in the Easement Area, except to the extent the need for such maintenance and repair is caused by the gross negligence or willful misconduct of Grantor. The Grantee shall return the Easement Area to a good condition (i.e. repair/replace soil disturbance and/or vegetation; removal of construction debris, rocks/gravel and other materials; etc.) with all damage resulting from or arising out of said use to be repaired by Grantee.
3. Liability and Indemnity. Subject to the limitations of the Oregon Tort Claims Act and the Oregon Constitution, Grantee shall indemnify, defend, and hold harmless Grantor against all losses and litigation expenses resulting from property damage and/or personal injuries that occur or are alleged to occur as a result of the use and or maintenance of the Easement Area by Grantee, Grantee's contractors, agents, employees, tenants, guests, invitees or anyone else entering the Easement Area by, through, or under the express or implied invitation of Grantee, except to the extent caused by the grossly negligent or wrongful acts or omissions of Grantor. Grantor agrees to indemnify, defend and hold harmless Grantee from any loss or litigation expense arising from, related to or associated with activities or uses engaged in by Grantor, or Grantor's contractors, agents, employees, tenants, guests, invitees or anyone else entering the Easement Area by, through, or under the express or implied invitation of Grantor. As used in this section, the word "losses" means any liability, loss, claim, settlement payment, cost and expense, interest, award, judgment, damages (including punitive damages), diminution in value,

fines, fees, and penalties or other charge other than a litigation expense. As used in this section, the term “litigation expenses” means any court filing fee, court cost, arbitration fee or cost, witness fee, and each other fee and cost of investigating and defending or asserting any claim of violation or for indemnification under this Easement including in each case, attorneys’ fees, other professionals’ fees, and disbursements.

4. Compliance with Laws. In utilizing the Easement Area, both parties agree to comply with any applicable State, local or Federal laws or regulations for public health or safety, construction or environmental protection.
5. Title Warranty. Grantor represents and warrants that to the best of its knowledge, Grantor owns the entire fee simple interest in the Property, which is free to the best of Grantor’s knowledge from all encumbrances (except for easements, conditions and restrictions of record), and has the full power and lawful authority to grant this Easement.
6. Entire Agreement. This Easement is the final and complete agreement between the parties concerning the rights granted herein, and supersedes all prior understandings with respect to it. Except as otherwise set forth in this Easement, this Easement may not be modified or terminated, nor may any obligations under it be waived, except by written instrument signed by all parties to the Easement.
7. Further Cooperation. Each of the parties agree to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to further the expressed and intent purpose of this Easement.
8. Covenants Running With the Land. The Easement shall run with the land as to all property benefited and burdened thereby, including any partition or division of such property. The rights, covenants, and obligations contained in this Easement shall bind, burden, and benefit Grantor and Grantee, and their respective successors, assigns, lessees, mortgagees, and beneficiaries under any deeds of trust.

IN WITNESS WHEREOF, the parties have executed this easement, this _____ day of _____, 20__.

GRANTOR:

GRANTEE:
City of Silverton

By:

By:
Title: City Manager

Date: _____

Date: _____

STATE OF OREGON
County of Marion

This instrument was acknowledged before me on _____ 20__, by
Christy Wurster, City Manager for the City of Silverton.

Notary Public for Oregon