
Do not write above this line, for filing purposes only

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (the "Agreement"), being dated for reference the ____ day of _____, 2021, is made and entered into by and between **Platte River Recovery Implementation Foundation, Trustee, A Nebraska Nonprofit Corporation ("Grantor")**, and **Tri-Basin Natural Resources District, A Nebraska Political Subdivision ("Tri-Basin")**.

WHEREAS, for the mutual benefit of both parties and the public benefits associated therewith, the parties desire for Tri-Basin to obtain and be granted a term-of-years easement and a temporary easement from the Grantor over, under, across, and through the Grantor's real estate situated in Phelps County, Nebraska, and as more specifically described as follows, to-wit:

Lots Four (4) and Five (5), Section Ten (10), Township Eight (8) North, Range Nineteen (19), West of the 6th P.M., in Phelps County, Nebraska.

NOW, THEREFORE, for one dollar (\$1.00) and other good and valuable consideration, the parties agree as follows:

1. DEFINITIONS:

1.1 Effective Date. The date on which both the Grantor and Tri-Basin have executed this Agreement.

1.2 Term-of-years Easement. The term "Term-of-Years Easement" shall mean that easement given for the duration set forth herein.

1.3 Temporary Easement. The term "Temporary Easement" shall mean that easement given for the construction of the improvements described herein and for the duration set forth herein.

1.4 Easement. The term "Easement" or "Easements" shall mean the Term-of-Years Easement and the Temporary Easement.

1.5 Easement Area. The term "Easement Area" shall mean the portion

of the Grantor's real estate identified on Exhibit "A".

1.6 Easement Property. The term "Easement Property" shall mean the Grantor's real estate legally described in the Recitals above.

2. GRANT OF EASEMENT. Subject to the terms and conditions set forth herein, Grantor hereby grants to Tri-Basin, and Tri-Basin hereby acquires and accepts, the Easements described herein. This instrument, or a memorandum of this instrument, shall be filed of record with the office of the Clerk/Register of Deeds of the County in which the easement property is located.

3. CONSIDERATION. The parties understand, acknowledge, and agree that the Easements being granted herein and the purposes for which the Easements are being granted, are for the mutual benefit of both parties to this Agreement and also the public benefits associated therewith. Therefore, there is material consideration for this Agreement (and the rights and obligations herein) as a result of the mutual benefits and responsibilities extending from each party to the other. Furthermore, Tri-Basin shall pay to Grantor the sum of One Dollar (\$1.00) in good and sufficient funds.

4. PURPOSE. The exclusive Easements to be conveyed to Tri-Basin are for the drilling, construction, reconstruction, installation, maintenance, operation, inspection, monitoring, replacement, repair, change, upgrading, and removal of one or more water wells (including production wells and observation wells), pipelines and ditches to transport and convey water to be pumped therefrom to the Platte River, electrical and/or other power service, underground electric lines/wiring, together with everything related thereto both above and below ground as may be deemed prudent or necessary by Tri-Basin in order to effectively carry out the purposes of the Easements. In addition, Tri-Basin shall also have a right of ingress and egress (throughout the duration of the Term-of-Years Easement) over those lands described herein and the adjacent and contiguous properties of Grantor in order that Tri-Basin may access such Easements. The parties acknowledge and understand that Tri-Basin is working in cooperation with the Platte River Recovery Implementation Program ("PRRIP") pursuant to a Water Augmentation Agreement dated as of _____, 2020 (the "Water Agreement"), to develop a streamflow augmentation wellfield along a portion of the south side of the Platte River, and the ultimate purpose of the Easements is to carry out this project.

5. EASEMENTS. The Easements shall be at the approximate location(s) and dimensions set forth on Exhibit "A" attached hereto and incorporated herein by this reference (the "Easement Area"). The parties anticipate that two wells will be drilled and connected by pipeline along the south boundary of the property and a pipeline will extend north along the east boundary of the property which is the subject of this Agreement. At Tri-Basin's reasonable discretion, it may replace Exhibit "A" with a more definite drawing of the Easements and record the same in the Office of the County Clerk/Register of Deeds. The Grantor agrees to fully cooperate and execute any and all additional documents necessary to facilitate this process. If Tri-Basin requires additional work space and/or Easements or the final survey (or other designation of the area) of the Easements increases the size of the Easements, then the Easements shall be deemed extended accordingly without any action being required by the parties.

6. TERM OF EASEMENTS. The Temporary Easement shall commence upon the execution of this Agreement by both parties, at which time Tri-Basin shall be authorized to commence all work and activities relating to the project and the purposes set forth above. The Temporary Easement shall expire upon completion of construction and installation of the well fields, pipelines, water conveyance ditches, installation of electrical or other power service, and installation of all underground lines and wiring. The Term-of-Years Easement shall commence upon completion of construction and installation of the well fields, pipelines, water conveyance ditches, installation of electrical or other power service, and installation of all underground lines and wiring. Tri-Basin shall thereafter provide written notice to Grantor (or Grantor's successor-in-interest) of the date of completion of construction and installation. The initial term of the Term-of-Years Easement shall be for a period of twenty-five (25) years. Tri-Basin shall also have the right to renew and extend the Term-of-Years Easement for a subsequent term of twenty-five (25) years upon the same conditions as in the initial term, PROVIDED, THAT: (a) Tri-Basin first gives written notice to Grantor (or Grantor's successor-in-interest) that Tri-Basin desires to renew and extend the Easement for an additional 25 years, with such notice to be given at least six (6) months prior to the expiration of the initial term, (b) Tri-Basin is not then in default of its obligations under this Agreement, and (c) Grantor does not, at least three (3) months prior to the expiration of the initial term, provide Tri-Basin with written notice of Grantor's objection to the renewal and extension. Notwithstanding the foregoing, the term of this Easement may be terminated by Grantor upon at least nine (9) months prior written notice if the Water Agreement expires or is terminated in accordance with the terms thereof.

7. GRANTOR'S RIGHTS. Grantor shall have the right to the full use and enjoyment of the Easement Property subject to the restrictions and reservations stated herein. Grantor shall maintain use of the Easement Property provided that said use does not interfere with Tri-Basin's quiet and peaceful enjoyment and use thereof. Grantor shall not be permitted to impound water or permit to be constructed any building, structure, reservoir, excavation, or other improvement or obstruction, on, over, or under the Term-of-Years Easement or to change the grade over, alter the depth of soil cover, or plant trees on or within the Term-of-Years Easement without the express written consent of Tri-Basin. In addition, Grantor shall be entitled to use the augmentation wells to manage groundwater levels under Grantor's property; provided, however, that any such use: (a) shall be at Grantor's expense, and (b) must not be inconsistent nor in conflict with the needs of Tri-Basin or the PRRIP.

8. DAMAGES. In addition to the consideration for the Easements, Tri-Basin agrees to pay Grantor for any and all actual physical damages to fences and growing crops which arise from Tri-Basin's use of the Easements. Tri-Basin shall have the right (without liability for damages) from time to time during and after the initial construction and installation of the wells and ditches to clear and re-clear the Easement Property by removing trees, brush, and other obstructions that may interfere with Tri-Basin's use of the Easements (and Tri-Basin shall have no responsibility of replanting and/or restoring such trees, brush, and other obstructions allowed to be removed herein).

9. MAINTENANCE; RESTORATION. Tri-Basin shall be responsible for routine maintenance and upkeep of the Easement Property during the term of the Easement

(e.g., mowing and weed control). Except to the extent Tri-Basin is authorized otherwise herein, Tri-Basin shall restore the surface of the Easements, as nearly as practicable and permissible, to its prior condition and contour following any disturbance occasioned by construction or use of the Easements by Tri-Basin, its contractors, or agents. Provided, however, that as provided above, Tri-Basin shall have no responsibility of replanting and/or restoring trees, brush, and other obstructions allowed to be removed herein. Furthermore, at the termination/expiration of the Easements, Tri-Basin shall not be required to physically remove the well field improvements nor eliminate any ditches constructed pursuant to the granting of the Easements.

10. RIGHT OF IMMEDIATE ENTRY. Upon the execution of this instrument, Tri-Basin shall have the right of immediate entry to and access upon the Easement Property for the purposes of surveying and performing various testing, engineering, and environmental investigations. This shall include, but not be limited to, the right to obtain soil samples, conduct geological surveys, and drill test holes.

11. EFFECT ON GRANTOR'S EXISTING IRRIGATION WELL(S). The parties further agree to the following provisions in the event Tri-Basin's pumping of water from the well(s) constructed and installed on the Easement Property causes a reduction in the pumping capacity of Grantor's irrigation well located upon the property first described above:

- a. Tri-Basin shall maintain an observation well with each of Tri-Basin's production wells located upon the easement property.
- b. Tri-Basin shall also measure the water levels of Grantor's irrigation well at least three (3) times per year, and Tri-Basin shall maintain a 3-year rolling average of the springtime water levels at Grantor's irrigation well. If the measurements taken of Grantor's irrigation well indicate that Tri-Basin's pumping of water from its production well(s) creates a drop in the well field's water level of less than ten feet (10'), no adjustment in pumping shall be required of Tri-Basin.
- c. If the measurement taken of Grantor's irrigation well indicates that Tri-Basin's pumping of water from the production well(s) creates a drop in the well field's water level of more than ten feet (10'), then:
 - i. Tri-Basin will promptly notify the Grantor of the same and the parties shall meet to determine whether Grantor's pumping capacity from its own irrigation well located upon the real estate first described above is being adversely affected.
 - ii. If it is determined that the pumping capacity of Grantor's irrigation well is not being adversely affected, then no adjustment in pumping shall be required of Tri-Basin.
 - iii. If it is determined that the pumping capacity of Grantor's irrigation well is being adversely affected, then the parties shall seek to agree upon the most appropriate course of action to remedy the situation. If the parties are unable to

reach an agreement, then Tri-Basin shall, at such time, either:

(a) reduce the pumping from its well(s) so as to restore the full pumping capacity of Grantor's irrigation well, or (b) modify Grantor's irrigation well to restore its full pumping capacity. Once the water level has been restored to levels contemplated by this agreement, no further reduction in pumping or other action shall be required of Tri-Basin unless and until the water level shall again reach such threshold.

Tri-Basin's obligations set forth in this Section apply only to irrigation wells in existence as of the date of this Easement Agreement (and replacement wells), but do not extend to any other wells subsequently drilled or installed.

12. PROVISIONS UPON TERMINATION/EXPIRATION OF TERM-OF-YEARS EASEMENT. The parties further agree that, except as otherwise provided herein, upon the termination or expiration of the Term-of-Years Easement (or the final renewal or extension thereof):

a. Any and all personal property and fixtures constructed and/or installed by or on behalf of Tri-Basin pursuant to the Easements shall remain the sole property of Tri-Basin. Tri-Basin shall have the right, but shall be under no obligation, to remove such personal property and fixtures upon such termination or expiration. In the event Tri-Basin fails to remove any such personal property and fixtures within twelve (12) months after such termination or expiration, any such property remaining upon or within the subject real estate shall become the property of Grantor.

b. Unless other arrangements are made at such time between Tri-Basin and Grantor, Tri-Basin shall cause any water wells constructed and/or installed by or on behalf of Tri-Basin to be de-commissioned in accordance with Nebraska laws and regulations existing at such time.

13. TENANT'S CONSENT AND SUBORDINATION. If Grantor has leased the Easement Property to a third party tenant, the tenant shall be required to execute the written Consent and Subordination set forth below, pursuant to which the tenant: (a) consents to this Agreement, (b) agrees that tenant's rights to the Easement properties shall be subordinate to this Agreement and to Tri-Basin's rights contained herein, and (c) waives any right to compensation from Tri-Basin. If the written Consent and Subordination set forth below has not been executed, Grantor has represented to Tri-Basin that the Easement properties are not subject to any lease to a third party tenant. Grantor agrees to indemnify and hold Tri-Basin harmless of and from any claims or suits which may be asserted against Tri-Basin by any third party tenants.

14. INDEMNIFICATION. Grantor warrants generally the property herein conveyed and agrees to defend Grantor's right to title against any third party claim. Grantor also covenants that Grantor is the lawful fee simple owner of the Easement

Property and that Grantor has the right and authority to enter into this Agreement and that it has the right to convey the Easements described herein.

Tri-Basin agrees to indemnify and hold harmless Grantor from any claims or suits which may be asserted against Grantor arising out of the negligence or intentional wrongful acts of Tri-Basin, its contractors, or agents. Provided, however, that Tri-Basin does not and will not indemnify or hold harmless Grantor from any negligent or intentional wrongful acts of Grantor, its employees, agents, tenants, licensees, or invitees.

Grantor agrees to indemnify and hold harmless Tri-Basin, its officers, employees and agents: (a) from any claims or suits which may be asserted against Tri-Basin, its employees, agents, or contractors, arising out of the negligence or intentional wrongful acts of Grantor, its employees, agents, tenants, licensees, or invitees, and/or (b) any claims or suits resulting from the discovery of hazardous material within the Easements, provided that the hazardous material has not been delivered to the Easements by Tri-Basin, its employees, agents, or contractors.

Upon the termination of the Easement, Tri-Basin shall have no further obligations to Grantor other than those expressly set forth in this instrument.

15. COUNTERPARTS. This Agreement may be signed in counterparts and all such counterparts shall be deemed as originals and binding upon each party executing any counterpart and upon their respective heirs, personal representatives, successors and assigns. Furthermore, facsimile or electronic signatures shall be deemed as an original signature by the enforcing party.

16. ENFORCEMENT. This Agreement and the Easements referred to herein shall be governed by and construed in accordance with the laws of the State of Nebraska, and shall be enforced in the State of Nebraska.

17. ASSIGNMENT. This Agreement may be assigned in whole or in part by either party. Any such assignment shall not release the assigning party from any liability or obligation hereunder unless the non-assigning party has consented to the proposed assignment. If Grantor either assigns or conveys any part of this Agreement, Grantor shall notify Tri-Basin in writing of such intention prior to such assignment or conveyance. If Tri-Basin pays the Grantor the compensation referred to herein or for damages to Grantor's property without receiving actual notice from the Grantor of an assignment or conveyance of the Grantor's interest, the Grantor agrees to indemnify and hold harmless Tri-Basin, its agents, and contractors, for such payment(s) and to immediately make full restitution to Tri-Basin of all such funds.

IN WITNESS WHEREOF, the parties hereto have caused this Easement Agreement to be executed and delivered.

[Signature page follows]

Prepared 01.11.2021

**Platte River Recovery
Implementation Foundation,
Trustee,**

Tri-Basin Natural Resources District,

By _____
Name: Diane M. Wilson
Title: Executive Director

By _____
Name: John Thorburn
Title: Manager

TENANT'S CONSENT

The undersigned represents to being the tenant of all or a part of the Easement properties referred to above, and hereby: (1) consents to the foregoing Easement Agreement, (2) agrees that tenant's rights to the Easement properties shall be subordinate to the Easement Agreement and Tri-Basin's rights contained therein, and (3) waives any right to compensation from Tri-Basin.

Dated: _____, 20____. _____

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

Before me, a Notary Public qualified in said county, personally came **Diane M. Wilson, Executive Director of Platte River Recovery Implementation Foundation, Trustee, A Nebraska Nonprofit Corporation**, known to me to be the identical person(s) who signed the foregoing Agreement, and acknowledged the execution thereof to be his/her/their voluntary act and deed on behalf of said Corporation.

Witness my hand and notarial seal on _____, 20____.

Notary Public

(Seal)

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

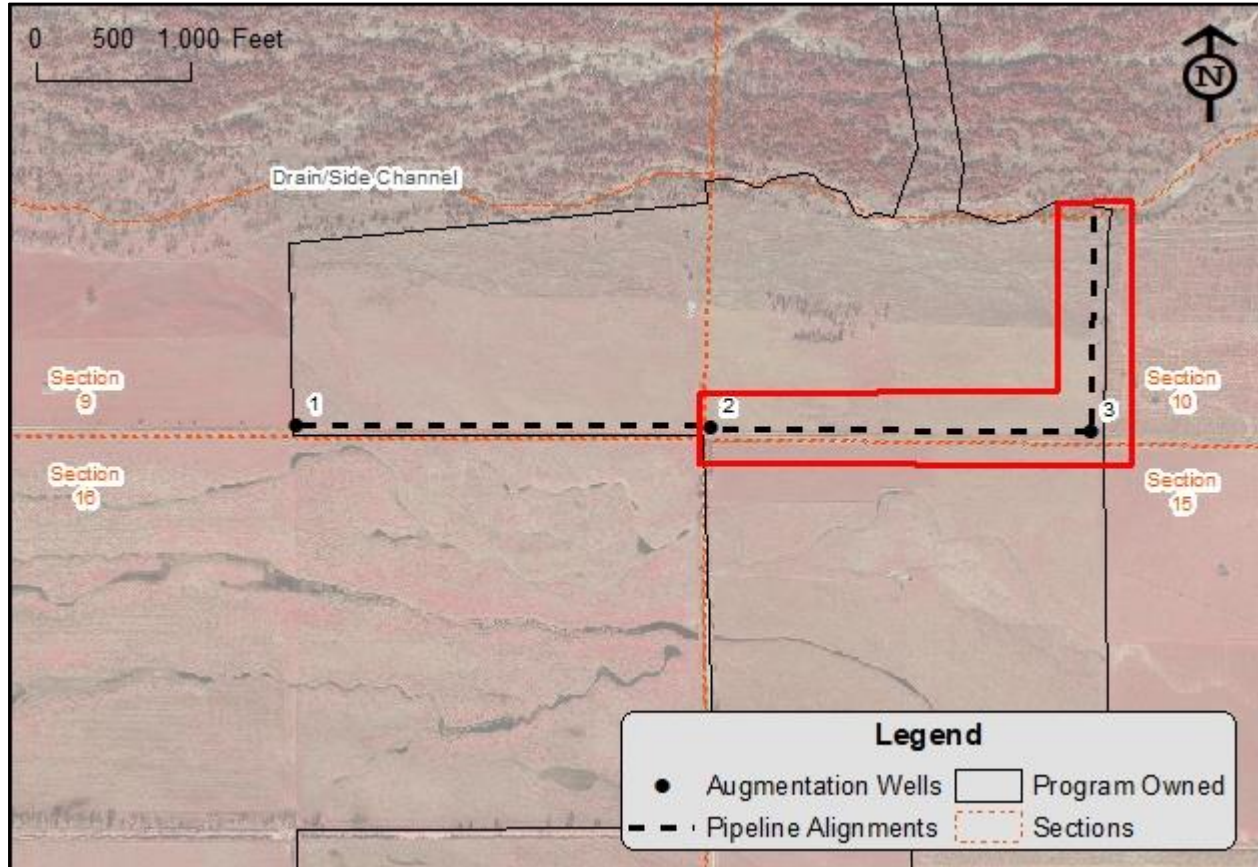
Before me, a Notary Public qualified in said county, personally came **John Thorburn, Manager of Tri-Basin Natural Resources District, A Nebraska Political Subdivision**, known to me to be the identical person who signed the foregoing Agreement, and acknowledged the execution thereof to be his or her voluntary act and deed on behalf of said Political Subdivision.

Witness my hand and notarial seal on _____, 20____.

Notary Public

(Seal)

Exhibit "A"



4814-1279-2794, v. 2

Do not write above this line, for filing purposes only

EASEMENT AGREEMENT

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WHEREAS, for the mutual benefit of both parties and the public benefits associated therewith, the parties desire for Tri-Basin to obtain and be granted a term-of-years easement and a temporary easement from the Grantor over, under, across, and through the Grantor's real estate situated in Phelps County, Nebraska, and as more specifically described as follows, to-wit:

Lots Five (5) and Six (6), Section Nine (9), Township Eight (8) North, Range Nineteen (19), West of the 6th P.M., in Phelps County, Nebraska.

NOW, THEREFORE, for one dollar (\$1.00) and other good and valuable consideration, the parties agree as follows:

1. DEFINITIONS:

1.1 Effective Date. The date on which both the Grantor and Tri-Basin have executed this Agreement.

1.2 Term-of-years Easement. The term "Term-of-Years Easement" shall mean that easement given for the duration set forth herein.

1.3 Temporary Easement. The term "Temporary Easement" shall mean that easement given for the construction of the improvements described herein and for the duration set forth herein.

1.4 Easement. The term "Easement" or "Easements" shall mean the Term-of-Years Easement and the Temporary Easement.

1.5 Easement Area. The term "Easement Area" shall mean the portion

of the Grantor's real estate identified on Exhibit "A".

1.6 Easement Property. The term "Easement Property" shall mean the Grantor's real estate legally described in the Recitals above.

2. GRANT OF EASEMENT. Subject to the terms and conditions set forth herein, Grantor hereby grants to Tri-Basin, and Tri-Basin hereby acquires and accepts, the Easements described herein. This instrument, or a memorandum of this instrument, shall be filed of record with the office of the Clerk/Register of Deeds of the County in which the easement property is located.

3. CONSIDERATION. The parties understand, acknowledge, and agree that the Easements being granted herein and the purposes for which the Easements are being granted, are for the mutual benefit of both parties to this Agreement and also the public benefits associated therewith. Therefore, there is material consideration for this Agreement (and the rights and obligations herein) as a result of the mutual benefits and responsibilities extending from each party to the other. Furthermore, Tri-Basin shall pay to Grantor the sum of One Dollar (\$1.00) in good and sufficient funds.

4. PURPOSE. The exclusive Easements to be conveyed to Tri-Basin are for the drilling, construction, reconstruction, installation, maintenance, operation, inspection, monitoring, replacement, repair, change, upgrading, and removal of one or more water wells (including production wells and observation wells), pipelines and ditches to transport and convey water to be pumped therefrom to the Platte River, electrical and/or other power service, underground electric lines/wiring, together with everything related thereto both above and below ground as may be deemed prudent or necessary by Tri-Basin in order to effectively carry out the purposes of the Easements. In addition, Tri-Basin shall also have a right of ingress and egress (throughout the duration of the Term-of-Years Easement) over those lands described herein and the adjacent and contiguous properties of Grantor in order that Tri-Basin may access such Easements. The parties acknowledge and understand that Tri-Basin is working in cooperation with the Platte River Recovery Implementation Program ("PRRIP") pursuant to a Water Augmentation Agreement dated as of _____, 2020 (the "Water Agreement"), to develop a streamflow augmentation wellfield along a portion of the south side of the Platte River, and the ultimate purpose of the Easements is to carry out this project.

5. EASEMENTS. The Easements shall be at the approximate location(s) and dimensions set forth on Exhibit "A" attached hereto and incorporated herein by this reference (the "Easement Area"). The parties anticipate that a well will be drilled and pipeline installed along the southern boundary of the property which is the subject of this Agreement. At Tri-Basin's reasonable discretion, it may replace Exhibit "A" with a more definite drawing of the Easements and record the same in the Office of the County Clerk/Register of Deeds. The Grantor agrees to fully cooperate and execute any and all additional documents necessary to facilitate this process. If Tri-Basin requires additional work space and/or Easements or the final survey (or other designation of the area) of the Easements increases the size of the Easements, then the Easements shall be deemed extended accordingly without any action being required by the parties.

6. TERM OF EASEMENTS. The Temporary Easement shall commence upon

the execution of this Agreement by both parties, at which time Tri-Basin shall be authorized to commence all work and activities relating to the project and the purposes set forth above. The Temporary Easement shall expire upon completion of construction and installation of the well fields, pipelines, water conveyance ditches, installation of electrical or other power service, and installation of all underground lines and wiring. The Term-of-Years Easement shall commence upon completion of construction and installation of the well fields, pipelines, water conveyance ditches, installation of electrical or other power service, and installation of all underground lines and wiring. Tri-Basin shall thereafter provide written notice to Grantor (or Grantor's successor-in-interest) of the date of completion of construction and installation. The initial term of the Term-of-Years Easement shall be for a period of twenty-five (25) years. Tri-Basin shall also have the right to renew and extend the Term-of-Years Easement for a subsequent term of twenty-five (25) years upon the same conditions as in the initial term, PROVIDED, THAT: (a) Tri-Basin first gives written notice to Grantor (or Grantor's successor-in-interest) that Tri-Basin desires to renew and extend the Easement for an additional 25 years, with such notice to be given at least six (6) months prior to the expiration of the initial term, (b) Tri-Basin is not then in default of its obligations under this Agreement, and (c) Grantor does not, at least three (3) months prior to the expiration of the initial term, provide Tri-Basin with written notice of Grantor's objection to the renewal and extension. Notwithstanding the foregoing, the term of this Easement may be terminated by Grantor upon at least nine (9) months prior written notice if the Water Agreement expires or is terminated in accordance with the terms thereof.

7. GRANTOR'S RIGHTS. Grantor shall have the right to the full use and enjoyment of the Easement Property subject to the restrictions and reservations stated herein. Grantor shall maintain use of the Easement Property provided that said use does not interfere with Tri-Basin's quiet and peaceful enjoyment and use thereof. Grantor shall not be permitted to impound water or permit to be constructed any building, structure, reservoir, excavation, or other improvement or obstruction, on, over, or under the Term-of-Years Easement or to change the grade over, alter the depth of soil cover, or plant trees on or within the Term-of-Years Easement without the express written consent of Tri-Basin. In addition, Grantor shall be entitled to use the augmentation wells to manage groundwater levels under Grantor's property; provided, however, that any such use: (a) shall be at Grantor's expense, and (b) must not be inconsistent nor in conflict with the needs of Tri-Basin or the PRRIP.

8. DAMAGES. In addition to the consideration for the Easements, Tri-Basin agrees to pay Grantor for any and all actual physical damages to fences and growing crops which arise from Tri-Basin's use of the Easements. Tri-Basin shall have the right (without liability for damages) from time to time during and after the initial construction and installation of the wells and ditches to clear and re-clear the Easement Property by removing trees, brush, and other obstructions that may interfere with Tri-Basin's use of the Easements (and Tri-Basin shall have no responsibility of replanting and/or restoring such trees, brush, and other obstructions allowed to be removed herein).

9. MAINTENANCE; RESTORATION. Tri-Basin shall be responsible for routine maintenance and upkeep of the Easement Property during the term of the Easement (e.g., mowing and weed control). Except to the extent Tri-Basin is authorized otherwise

herein, Tri-Basin shall restore the surface of the Easements, as nearly as practicable and permissible, to its prior condition and contour following any disturbance occasioned by construction or use of the Easements by Tri-Basin, its contractors, or agents. Provided, however, that as provided above, Tri-Basin shall have no responsibility of replanting and/or restoring trees, brush, and other obstructions allowed to be removed herein. Furthermore, at the termination/expiration of the Easements, Tri-Basin shall not be required to physically remove the well field improvements nor eliminate any ditches constructed pursuant to the granting of the Easements.

10. RIGHT OF IMMEDIATE ENTRY. Upon the execution of this instrument, Tri-Basin shall have the right of immediate entry to and access upon the Easement Property for the purposes of surveying and performing various testing, engineering, and environmental investigations. This shall include, but not be limited to, the right to obtain soil samples, conduct geological surveys, and drill test holes.

11. EFFECT ON GRANTOR'S EXISTING IRRIGATION WELL(S). The parties further agree to the following provisions in the event Tri-Basin's pumping of water from the well(s) constructed and installed on the Easement Property causes a reduction in the pumping capacity of Grantor's irrigation well located upon the property first described above:

- a. Tri-Basin shall maintain an observation well with each of Tri-Basin's production wells located upon the easement property.
- b. Tri-Basin shall also measure the water levels of Grantor's irrigation well at least three (3) times per year, and Tri-Basin shall maintain a 3-year rolling average of the springtime water levels at Grantor's irrigation well. If the measurements taken of Grantor's irrigation well indicate that Tri-Basin's pumping of water from its production well(s) creates a drop in the well field's water level of less than ten feet (10'), no adjustment in pumping shall be required of Tri-Basin.
- c. If the measurement taken of Grantor's irrigation well indicates that Tri-Basin's pumping of water from the production well(s) creates a drop in the well field's water level of more than ten feet (10'), then:
 - i. Tri-Basin will promptly notify the Grantor of the same and the parties shall meet to determine whether Grantor's pumping capacity from its own irrigation well located upon the real estate first described above is being adversely affected.
 - ii. If it is determined that the pumping capacity of Grantor's irrigation well is not being adversely affected, then no adjustment in pumping shall be required of Tri-Basin.
 - iii. If it is determined that the pumping capacity of Grantor's irrigation well is being adversely affected, then the parties shall seek to agree upon the most appropriate course of action to remedy the situation. If the parties are unable to reach an agreement, then Tri-Basin shall, at such time,

either:

(a) reduce the pumping from its well(s) so as to restore the full pumping capacity of Grantor's irrigation well, or (b) modify Grantor's irrigation well to restore its full pumping capacity. Once the water level has been restored to levels contemplated by this agreement, no further reduction in pumping or other action shall be required of Tri-Basin unless and until the water level shall again reach such threshold.

Tri-Basin's obligations set forth in this Section apply only to irrigation wells in existence as of the date of this Easement Agreement (and replacement wells), but do not extend to any other wells subsequently drilled or installed.

12. PROVISIONS UPON TERMINATION/EXPIRATION OF TERM-OF-YEARS EASEMENT. The parties further agree that, except as otherwise provided herein, upon the termination or expiration of the Term-of-Years Easement (or the final renewal or extension thereof):

a. Any and all personal property and fixtures constructed and/or installed by or on behalf of Tri-Basin pursuant to the Easements shall remain the sole property of Tri-Basin. Tri-Basin shall have the right, but shall be under no obligation, to remove such personal property and fixtures upon such termination or expiration. In the event Tri-Basin fails to remove any such personal property and fixtures within twelve (12) months after such termination or expiration, any such property remaining upon or within the subject real estate shall become the property of Grantor.

b. Unless other arrangements are made at such time between Tri-Basin and Grantor, Tri-Basin shall cause any water wells constructed and/or installed by or on behalf of Tri-Basin to be de-commissioned in accordance with Nebraska laws and regulations existing at such time.

13. TENANT'S CONSENT AND SUBORDINATION. If Grantor has leased the Easement Property to a third party tenant, the tenant shall be required to execute the written Consent and Subordination set forth below, pursuant to which the tenant: (a) consents to this Agreement, (b) agrees that tenant's rights to the Easement properties shall be subordinate to this Agreement and to Tri-Basin's rights contained herein, and (c) waives any right to compensation from Tri-Basin. If the written Consent and Subordination set forth below has not been executed, Grantor has represented to Tri-Basin that the Easement properties are not subject to any lease to a third party tenant. Grantor agrees to indemnify and hold Tri-Basin harmless of and from any claims or suits which may be asserted against Tri-Basin by any third party tenants.

14. INDEMNIFICATION. Grantor warrants generally the property herein conveyed and agrees to defend Grantor's right to title against any third party claim. Grantor also covenants that Grantor is the lawful fee simple owner of the Easement Property and that Grantor has the right and authority to enter into this Agreement

and that it has the right to convey the Easements described herein.

Tri-Basin agrees to indemnify and hold harmless Grantor from any claims or suits which may be asserted against Grantor arising out of the negligence or intentional wrongful acts of Tri-Basin, its contractors, or agents. Provided, however, that Tri-Basin does not and will not indemnify or hold harmless Grantor from any negligent or intentional wrongful acts of Grantor, its employees, agents, tenants, licensees, or invitees.

Grantor agrees to indemnify and hold harmless Tri-Basin, its officers, employees and agents: (a) from any claims or suits which may be asserted against Tri-Basin, its employees, agents, or contractors, arising out of the negligence or intentional wrongful acts of Grantor, its employees, agents, tenants, licensees, or invitees, and/or (b) any claims or suits resulting from the discovery of hazardous material within the Easements, provided that the hazardous material has not been delivered to the Easements by Tri-Basin, its employees, agents, or contractors.

Upon the termination of the Easement, Tri-Basin shall have no further obligations to Grantor other than those expressly set forth in this instrument.

15. COUNTERPARTS. This Agreement may be signed in counterparts and all such counterparts shall be deemed as originals and binding upon each party executing any counterpart and upon their respective heirs, personal representatives, successors and assigns. Furthermore, facsimile or electronic signatures shall be deemed as an original signature by the enforcing party.

16. ENFORCEMENT. This Agreement and the Easements referred to herein shall be governed by and construed in accordance with the laws of the State of Nebraska, and shall be enforced in the State of Nebraska.

17. ASSIGNMENT. This Agreement may be assigned in whole or in part by either party. Any such assignment shall not release the assigning party from any liability or obligation hereunder unless the non-assigning party has consented to the proposed assignment. If Grantor either assigns or conveys any part of this Agreement, Grantor shall notify Tri-Basin in writing of such intention prior to such assignment or conveyance. If Tri-Basin pays the Grantor the compensation referred to herein or for damages to Grantor's property without receiving actual notice from the Grantor of an assignment or conveyance of the Grantor's interest, the Grantor agrees to indemnify and hold harmless Tri-Basin, its agents, and contractors, for such payment(s) and to immediately make full restitution to Tri-Basin of all such funds.

IN WITNESS WHEREOF, the parties hereto have caused this Easement Agreement to be executed and delivered.

[Signature page follows]

Prepared 01.11.2021

**Platte River Recovery
Implementation Foundation,
Trustee,**

Tri-Basin Natural Resources District,

By _____
Name: Diane M. Wilson
Title: Executive Director

By _____
Name: John Thorburn
Title: Manager

TENANT'S CONSENT

The undersigned represents to being the tenant of all or a part of the Easement properties referred to above, and hereby: (1) consents to the foregoing Easement Agreement, (2) agrees that tenant's rights to the Easement properties shall be subordinate to the Easement Agreement and Tri-Basin's rights contained therein, and (3) waives any right to compensation from Tri-Basin.

Dated: _____, 20____. _____

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

Before me, a Notary Public qualified in said county, personally came **Diane M. Wilson, Executive Director of Platte River Recovery Implementation Foundation, Trustee, A Nebraska Nonprofit Corporation**, known to me to be the identical person(s) who signed the foregoing Agreement, and acknowledged the execution thereof to be his/her/their voluntary act and deed on behalf of said Corporation.

Witness my hand and notarial seal on _____, 20____.

Notary Public

(Seal)

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

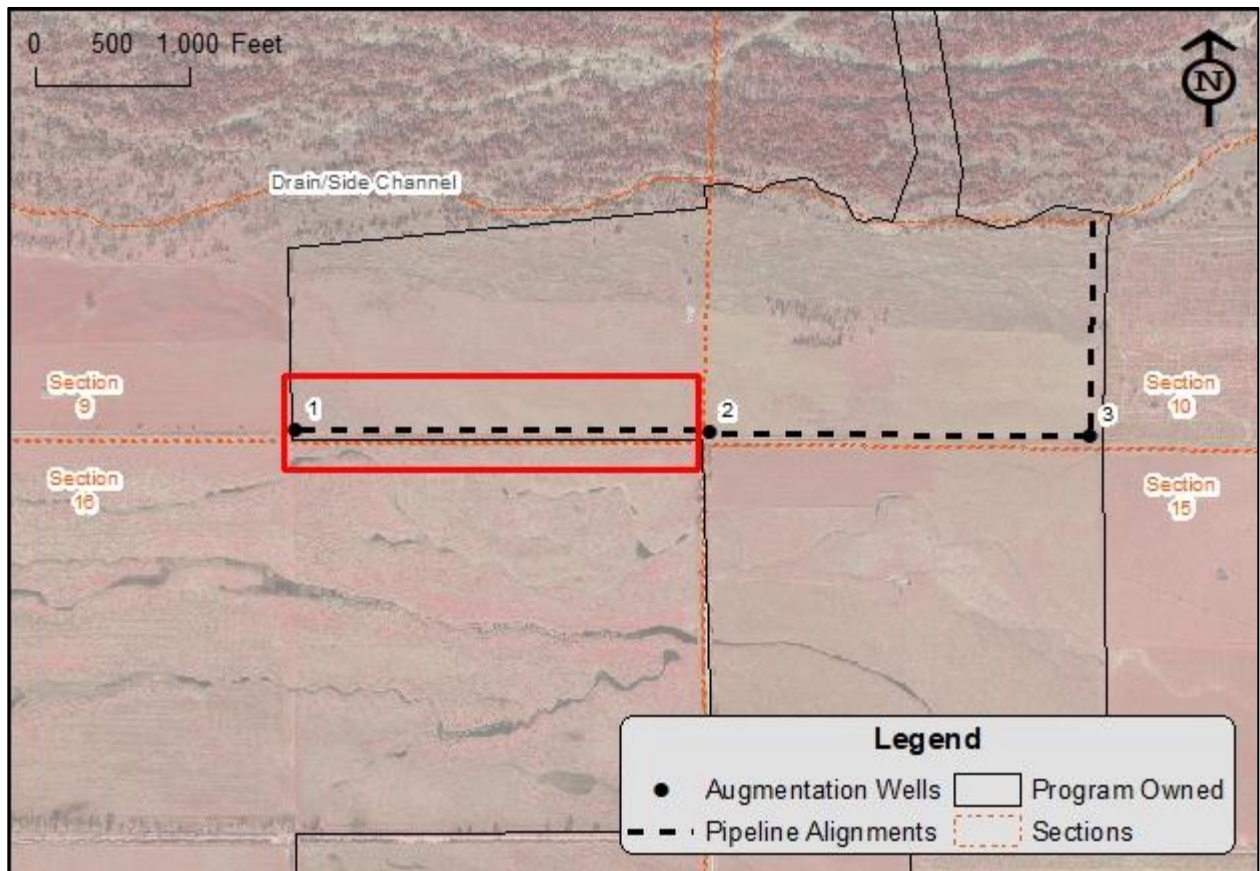
Before me, a Notary Public qualified in said county, personally came **John Thorburn, Manager of Tri-Basin Natural Resources District, A Nebraska Political Subdivision**, known to me to be the identical person who signed the foregoing Agreement, and acknowledged the execution thereof to be his or her voluntary act and deed on behalf of said Political Subdivision.

Witness my hand and notarial seal on _____, 20____.

Notary Public

(Seal)

Exhibit "A"



4814-1279-2794, v. 2