

State of North Dakota)
County of Traill)
Recorded: 12/9/2022 At 9:02 AM



OFFICE OF COUNTY RECORDER Fees: \$65.00
State of North Dakota)
County of Traill)

I hereby certify that the within instrument was filed in this office for record on 12/9/2022 at 9:02 AM, and was duly recorded as Document Number 199045

Marlene Eblen
Debra Huest

Recorder
Deputy

OHNSTAD TWICHELL LAW FIRM 444 SHEYENNE ST, SUITE 1
PO BOX 458 WEST FARGO, ND 58078-0458

PERMANENT CHANNEL EASEMENT

THIS EASEMENT is made this 25 day of November, 2022, by Douglas E. Williams, a single person, with a post office address of C/O Rebecca Dura 3308 Longfellow Road N, Fargo, North Dakota 58102 ("Grantor"); and the Traill County Water Resource District, a North Dakota political subdivision, with a post office address of P.O. Box 10, Hillsboro, North Dakota 58045 ("Grantee").

RECITALS

A. Grantee recently conducted proceedings to create Blanchard-Norman Drain No. 23-40 Improvement Project No. 2021-01 ("Drain 23-40") and its corresponding assessment district as a legal assessment drain and Grantee is now prepared to commence construction of Drain 23-40 (the "Project"); Grantee must acquire certain real property interests for purposes of constructing, managing, operating, and maintaining the Project.

B. Grantor owns certain real property along and adjacent to the Project, and Grantee must acquire interests in certain portions of Grantor's property, as more specifically described below, for purposes of improving, constructing, managing, operating, and maintaining the Drain 23-40 channel for purposes of the Project.

C. Grantor agrees to grant and convey to Grantee a permanent easement upon, over, in, under, across, and through the property described below, subject to the terms and conditions contained in this Easement.

In consideration of the mutual covenants contained in this Easement, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

*Traill County Water Resource District
Douglas E. Williams
Permanent Channel Easement
Drain 23-40 Improvement Project No. 2021-01*

AGREEMENT

1. **The Easement Property.** Grantor grants and conveys to Grantee a permanent easement, including the easement rights described in this Easement, upon, over, in, under, across, and through the following real property in Traill County, North Dakota:

That part of the Southwest Quarter of Section 3, Township 145 North, Range 52 West, Traill County, North Dakota, described as follows:

Beginning at the southwest corner of said Southwest Quarter; thence North 01 degree 25 minutes 31 seconds West along the west line of said Southwest Quarter a distance of 122.00 feet; thence North 87 degrees 02 minutes 11 seconds East a distance of 2,665.01 feet to the east line of said Southwest Quarter; thence South 01 degree 39 minutes 48 seconds East along the east line of said Southwest Quarter a distance of 130.87 feet to the southeast corner of said Southwest Quarter; thence South 87 degrees 13 minutes 38 seconds West along the south line of said Southwest Quarter a distance of 2,665.33 feet to the southwest corner of said Southwest Quarter.

The above-described tract contains 7.73 acres and is subject to all easements, restrictions, reservations, and rights-of-way of record.

The property described above is the "Easement Property."

2. **Grantee's Use of the Easement Property.** Under this Easement, Grantor grants to Grantee, and Grantee's officers, employees, agents, representatives, and contractors, this permanent and perpetual easement upon, over, in, under, across, and through the Easement Property for the following purposes: constructing, cleaning, inspecting, reconstructing, modifying, operating, maintaining, repairing, and improving the Drain 23-40 channel, the Project, and related appurtenances; excavating, piling, storing, depositing, spoiling, spreading, and removing excavated dirt, soil, clay, silt, and other materials; moving, storing, and removing equipment, materials, and supplies; removing trees, underbrush, obstructions, and any other vegetation, structures, or obstacles from the Easement Property; and the right to perform any other work necessary and incident to the construction, cleaning, inspection, reconstruction, modification, operation, maintenance, repair, or improvement of the Project, the Drain 23-40 channel, and related appurtenances, together with all necessary and reasonable rights of ingress and egress to and from the Easement Property. Grantee is not responsible for pre-existing environmental contamination or liabilities, and Grantee is not responsible for topsoil stripping or replacement.

*Traill County Water Resource District
Douglas E. Williams
Permanent Channel Easement
Drain 23-40 Improvement Project No. 2021-01*

3. **Grantor's Use of the Easement Property.** Grantor may mow or hay the containment berms along the Drain 23-40 channel but will not otherwise use the Easement Property; Grantor understands and recognizes any use of or entry upon the Easement Property, whether permitted or unpermitted, is at Grantor's sole risk. Grantor will not otherwise use or enter upon the Easement Property and will not damage or interfere with Grantee's use of the Easement Property, Grantee's rights and privileges under this Easement, Drain 23-40, or the Project. Grantor will not stockpile any additional material or otherwise introduce additional material upon or over the Easement Property; will not conduct any excavation of, on, or adjacent to the Easement Property; and will not otherwise alter the topography of the Easement Property.

4. **Consideration.** Grantor specifically acknowledges the consideration paid represents full and final consideration to Grantor as compensation or damages regarding the Easement Property, any of Grantor's remaining property, Drain 23-40, or the Project, and that Grantor is not entitled to any further payments, tax reductions, or damages under any state or federal statute, constitutional provision, rule or regulation, or other legal authority.

5. **Easement Runs With the Easement Property.** This Easement, and all covenants, terms, conditions, provisions, and undertakings created under this Easement, are perpetual and will run with the Easement Property, and will be binding upon Grantor's heirs, successors, and assigns.

6. **Structures and Personal Property.** Unless otherwise agreed by the parties, Grantor will remove any buildings, structures, personal property, or other items left on the Easement Property on or before the date of this Easement. Any buildings, structures, personal property, or other items remaining on the Easement Property after closing will automatically become Grantee's property, without the need for any bill of sale or any other written instrument or agreement; Grantee may remove or relocate any buildings, structures, personal property, or other items from the Easement Property, at Grantee's sole discretion and Grantee's sole cost, as necessary to accommodate the Project or Drain 23-40.

7. **Grantor Covenants.** Grantor warrants that Grantor is the fee simple owner of the Easement Property; that Grantor has the right to execute this Easement and to make the promises, covenants, and representations contained in this Easement; that this Easement does not violate any mortgage or other interest held by any third party regarding the Easement Property, or any portion of the Easement Property; that there are no outstanding unpaid bills incurred for labor, materials, or services regarding the Easement Property, or any portion of the Easement Property; and that there are no recorded or unrecorded liens, security interests, or any outstanding, pending, or threatened suits, judgments, executions, bankruptcies, or other proceedings pending or of record that would in any manner impact title to the Easement Property, or any portion of the Easement Property. Grantor will release, hold harmless, defend, and indemnify Grantee and its officers, agents, representatives, employees, and contractors from

*Traill County Water Resource District
Douglas E. Williams
Permanent Channel Easement
Drain 23-40 Improvement Project No. 2021-01*

and against any and all claims, damages, injuries, or costs arising out of or in any way related to any title defects regarding the Easement Property.

8. **Taxes.** Grantor is solely responsible for all taxes and special assessments or assessments for special improvements due, levied, or assessed regarding the Easement Property for all past, present, and future years. Grantee will not be responsible for payment of any real estate taxes or special assessments regarding the Easement Property at any time.

9. **Maintenance.** Grantee will not be responsible for routine mowing or haying, or otherwise maintaining any portion of the Easement Property, with the exception of Grantee's rights to construct, clean, inspect, reconstruct, modify, operate, maintain, repair, and improve the Project and the Drain 23-40 channel.

10. **Encumbrances.** Grantor will not encumber the Easement Property or enroll the Easement Property in any farm or other federal program that would be contrary to, or would in any way disrupt or interfere with, Grantee's use of the Easement Property, Grantee's rights and privileges under this Easement, Drain 23-40, or the Project. However, Grantor may rent or lease the Easement Property, at Grantor's sole discretion and without first obtaining Grantee's consent; and Grantor may mortgage the Easement Property, at Grantor's sole discretion and without first obtaining Grantee's consent. The rights and uses of all lessees and all mortgagees and uses are subject to this Easement, including the use restrictions described above; Grantor will be fully responsible to Grantee for Grantor's obligations under this Easement, including any violations by any lessee or any mortgagee.

11. **Waiver of Warranties.** The parties specifically agree neither Grantee nor any of its agents or representatives have made any representations or warranties in any way regarding the Project; Grantor's ability to use the Easement Property following construction of the Project; or Grantor's ability to enroll the Easement Property in any federal program.

12. **Tenants.** Grantor will promptly notify any of Grantor's tenants of the Project, of Grantee's immediate rights under this Temporary Easement, and of the potential for disruption of any tenant's farming activities prior to closing; Grantee will not be liable or otherwise responsible to any of Grantor's tenants for interference with any tenant's farming activities.

13. **Forbearance or Waiver.** The failure or delay of Grantee to insist on the timely performance of any of the terms of this Easement, or the waiver of any particular breach of any of the terms of this Easement, at any time, will not be construed as a continuing waiver of those terms or any subsequent breach, and all terms will continue and remain in full force and effect as if no forbearance or waiver had occurred.

14. **Governing Law.** This Agreement will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Agreement will be

*Trail County Water Resource District
Douglas E. Williams
Permanent Channel Easement
Drain 23-40 Improvement Project No. 2021-01*

venued in State District Court in Traill County, North Dakota, and the parties waive any objection to venue or personal jurisdiction.

15. **Severability.** If any court of competent jurisdiction finds any provision or part of this Easement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Easement, and all remaining terms and provisions of this Easement will remain binding and enforceable.

16. **Entire Agreement.** This Easement, together with any amendments, constitutes the entire agreement between the parties regarding the matters described in this Easement, and this Easement supersedes all other previous oral or written agreements between the parties.

17. **Modifications.** Any modifications or amendments of this Easement must be in writing and signed by Grantor and Grantee and must be recorded in the Traill County Recorder's Office.

18. **Representation.** The parties, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this Easement, and agree they have not been influenced by any representations or statements made by any other parties.

19. **Headings.** Headings in this Easement are for convenience only and will not be used to interpret or construe its provisions.

(Signatures appear on the following pages.)

State of North Dakota)
County of Traill)
Recorded: 12/9/2022 At 9:03 AM



OFFICE OF COUNTY RECORDER Fees: \$65.00
State of North Dakota)
County of Traill)

I hereby certify that the within instrument was filed in this office for record on 12/9/2022 at 9:03 AM, and was duly recorded as Document Number 199046

Marlene Eblen
Debra West

Recorder
Deputy

OHNSTAD TWICHELL LAW FIRM 444 SHEYENNE ST, SI
PO BOX 458 WEST FARGO, ND 58078-0458

PERMANENT BERM EASEMENT

THIS EASEMENT is made this 25 day of November, 2022, by Douglas E. Williams, a single person, with a post office address of C/O Rebecca Dura 3308 Longfellow Road N, Fargo, North Dakota 58102 ("Grantor"); and the Traill County Water Resource District, a North Dakota political subdivision, with a post office address of P.O. Box 10, Hillsboro, North Dakota 58045 ("Grantee").

RECITALS

A. Grantee recently conducted proceedings to create Blanchard-Norman Drain No. 23-40 Improvement Project No. 2021-01 ("Drain 23-40") and its corresponding assessment district as a legal assessment drain and Grantee is now prepared to commence construction of Drain 23-40 (the "Project"); Grantee must acquire certain real property interests for purposes of constructing, managing, operating, and maintaining the Project.

B. Grantor owns certain real property along and adjacent to the Project, and Grantee must acquire easement rights over certain portions of Grantor's property, as more specifically described below, for purposes of constructing, managing, operating, and maintaining containment berms and a backslope to accommodate the Project.

C. Grantor agrees to grant and convey to Grantee a permanent easement upon, over, in, under, across, and through the property described below, subject to the terms and conditions contained in this Easement.

In consideration of the mutual covenants contained in this Easement, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

State of North Dakota }
County of Traill }
Recorded: 12/9/2022 At 9:03 AM

*Trail County Water Resource District
Douglas E. Williams
Permanent Berm Easement
Drain 23-40 Improvement Project No. 2021-01*

AGREEMENT

1. **The Easement Property.** Grantor grants and conveys to Grantee a permanent easement, including the easement rights described in this Easement, upon, over, in, under, across, and through the following real property in Traill County, North Dakota:

That part of the Southwest Quarter of Section 3, Township 145 North, Range 52 West, Traill County, North Dakota, being a strip of land 37.00 feet wide, the south line of said strip is described as follows:

Commencing at the southwest corner of said Southwest Quarter; thence North 01 degree 25 minutes 31 seconds West along the west line of said Southwest Quarter a distance of 122.00 feet to the point of beginning of the line to be described; thence North 87 degrees 02 minutes 11 seconds East a distance of 2,665.01 feet to the east line of said Southwest Quarter, and said line there terminating, from said point of termination the southeast corner of said Southwest Quarter bears South 01 degree 39 minutes 48 seconds East a distance of 130.87 feet. The north line of the above described strip is to be lengthened or shortened to terminate on the east and west lines of said Southwest Quarter.

The above-described tract contains 2.26 acres and is subject to all easements, restrictions, reservations, and rights-of-way of record.

The property described above is the "Easement Property."

2. **Grantee's Use of the Easement Property.** Under this Easement, Grantor grants to Grantee, and Grantee's officers, employees, agents, representatives, and contractors, this permanent and perpetual easement upon, over, in, under, across, and through the Easement Property for the following purposes: constructing, cleaning, inspecting, reconstructing, modifying, operating, maintaining, repairing, and improving containment berms and a back slope as necessary to accommodate the Drain 23-40 channel and related appurtenances; excavating, piling, storing, depositing, spoiling, spreading, and removing excavated dirt, soil, clay, silt, and other materials; moving, storing, and removing equipment, materials, and supplies; removing trees, underbrush, obstructions, and any other vegetation, structures, or obstacles from the Easement Property; and the right to perform any other work necessary and incident to the construction, cleaning, inspection, reconstruction, modification, operation, maintenance, repair, or improvement of the containment berms and a back slope as necessary to accommodate the Drain 23-40 channel, together with all necessary and reasonable rights of ingress and egress to and from the Easement Property. Grantee is not responsible for pre-existing environmental contamination or liabilities, and Grantee is not responsible for topsoil stripping or replacement.

*Trail County Water Resource District
Douglas E. Williams
Permanent Berm Easement
Drain 23-40 Improvement Project No. 2021-01*

3. **Consideration.** Grantor specifically acknowledges the consideration paid represents full and final consideration to Grantor as compensation or damages regarding the Easement Property, any of Grantor's remaining property, Drain 23-40, or the Project, and that Grantor is not entitled to any further payments, tax reductions, or damages under any state or federal statute, constitutional provision, rule or regulation, or other legal authority, with the exception of crop damages described in this Easement.

4. **Easement Runs With the Easement Property.** This Easement, and all covenants, terms, conditions, provisions, and undertakings created under this Easement, are perpetual and will run with the Easement Property, and will be binding upon Grantor's heirs, successors, and assigns.

5. **Structures and Personal Property.** Unless otherwise agreed by the parties, Grantor will remove any buildings, structures, personal property, or other items left on the Easement Property on or before the date of this Easement. Any buildings, structures, personal property, or other items remaining on the Easement Property after closing will automatically become Grantee's property, without the need for any bill of sale or any other written instrument or agreement; Grantee may remove or relocate any buildings, structures, personal property, or other items from the Easement Property, at Grantee's sole discretion and Grantee's sole cost, as necessary to accommodate the Project or Drain 23-40.

6. **Crop Damages.** Grantee will not reimburse Grantor for crop damages, inputs, lost profits, or lost rent regarding any of the Easement Property in 2022 or 2023. Grantee will reimburse Grantor for reasonable crop damages resulting from Grantee's subsequent entrance upon the Easement Property for maintenance activities occurring in subsequent years following completion of construction of the Project. Grantee will calculate "reasonable crop damages" based on the area disturbed, actual production history, Grantor's yields the year of the damages, and current crop prices at the time of the crop damages.

7. **Grantor Covenants.** Grantor warrants that Grantor is the fee simple owner of the Easement Property; that Grantor has the right to execute this Easement and to make the promises, covenants, and representations contained in this Easement; that this Easement does not violate any mortgage or other interest held by any third party regarding the Easement Property, or any portion of the Easement Property; that there are no outstanding unpaid bills incurred for labor, materials, or services regarding the Easement Property, or any portion of the Easement Property; and that there are no recorded or unrecorded liens, security interests, or any outstanding, pending, or threatened suits, judgments, executions, bankruptcies, or other proceedings pending or of record that would in any manner impact title to the Easement Property, or any portion of the Easement Property.

*Traill County Water Resource District
Douglas E. Williams
Permanent Berm Easement
Drain 23-40 Improvement Project No. 2021-01*

Grantor will release, hold harmless, defend, and indemnify Grantee and its officers, agents, representatives, employees, and contractors from and against any and all claims, damages, injuries, or costs arising out of or in any way related to any title defects regarding the Easement Property.

8. **Taxes.** Grantor is solely responsible for all taxes and special assessments or assessments for special improvements due, levied, or assessed regarding the Easement Property for all past, present, and future years. Grantee will not be responsible for payment of any real estate taxes or special assessments regarding the Easement Property at any time.

9. **Grantor's Use of the Easement Property.** Grantor has the right and privilege to use the Easement Property at any time, in any manner, and for any purpose that is not inconsistent with Grantee's rights and privileges under this Easement, including the right to farm the Easement Property. However, Grantor will not use, or permit use of, the Easement Property in any manner that disrupts or interferes with Grantee's use of the Easement Property, Grantee's rights and privileges under this Easement, the Project, or Drain 23-40. Grantor will promptly cease any activities and remove any structures or obstructions that interfere with Grantee's use of the Easement Property, Grantee's rights and privileges under this Easement, Drain 23-40, or the Project when directed by Grantee, at Grantor's sole cost. Grantor will repair or replace any of Grantee's structures, facilities, right of way, or any other property owned by Grantee damaged by Grantor or as a result of Grantor's use of or entry upon the Easement Property, at Grantor's sole cost. Grantor will not stockpile or introduce any additional fill, dirt, soil, clay, silt, or any other material on the Easement Property without Grantee's written consent; however this limitation will not prevent Grantor from applying fertilizer and manure in quantities and rates typical for agricultural practices in the area.. With the exception of normal farming practices, Grantor will not conduct any excavation of the Easement Property or otherwise alter the existing topography of the Easement Property without Grantee's written consent.

10. **Maintenance.** Grantee will not be responsible for routine mowing or haying, or otherwise maintaining any portion of the Easement Property, with the exception of Grantee's rights to construct, clean, inspect, reconstruct, modify, operate, maintain, repair, and improve containment berms and a back slope as necessary to accommodate the Drain 23-40 channel and the Project.

*Traill County Water Resource District
Douglas E. Williams
Permanent Berm Easement
Drain 23-40 Improvement Project No. 2021-01*

11. **Encumbrances.** Grantor will not encumber the Easement Property or enroll the Easement Property in any farm or other federal program that would be contrary to, or would in any way disrupt or interfere with, Grantee's use of the Easement Property, Grantee's rights and privileges under this Easement, Drain 23-40, or the Project. However, Grantor may rent or lease the Easement Property, at Grantor's sole discretion and without first obtaining Grantee's consent; and Grantor may mortgage the Easement Property, at Grantor's sole discretion and without first obtaining Grantee's consent. The rights and uses of all lessees and all mortgagees and uses are subject to this Easement, including the use restrictions described above; Grantor will be fully responsible to Grantee for Grantor's obligations under this Easement, including any violations by any lessee or any mortgagee.

12. **Waiver of Warranties.** The parties specifically agree neither Grantee nor any of its agents or representatives have made any representations or warranties in any way regarding the Project; Grantor's ability to use the Easement Property following construction of the Project; or Grantor's ability to enroll the Easement Property in any federal program.

13. **Tenants.** Grantor will promptly notify any of Grantor's tenants of the Project, of Grantee's immediate rights under this Temporary Easement, and of the potential for disruption of any tenant's farming activities prior to closing; Grantee will not be liable or otherwise responsible to any of Grantor's tenants for interference with any tenant's farming activities.

14. **Forbearance or Waiver.** The failure or delay of Grantee to insist on the timely performance of any of the terms of this Easement, or the waiver of any particular breach of any of the terms of this Easement, at any time, will not be construed as a continuing waiver of those terms or any subsequent breach, and all terms will continue and remain in full force and effect as if no forbearance or waiver had occurred.

15. **Governing Law.** This Agreement will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Agreement will be venued in State District Court in Traill County, North Dakota, and the parties waive any objection to venue or personal jurisdiction.

16. **Severability.** If any court of competent jurisdiction finds any provision or part of this Easement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Easement, and all remaining terms and provisions of this Easement will remain binding and enforceable.

*Trail County Water Resource District
Douglas E. Williams
Permanent Berm Easement
Drain 23-40 Improvement Project No. 2021-01*

17. **Entire Agreement.** This Easement, together with any amendments, constitutes the entire agreement between the parties regarding the matters described in this Easement, and this Easement supersedes all other previous oral or written agreements between the parties.

18. **Modifications.** Any modifications or amendments of this Easement must be in writing and signed by Grantor and Grantee, and must be recorded in the Traill County Recorder's Office.

19. **Representation.** The parties, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this Easement, and agree they have not been influenced by any representations or statements made by any other parties.

20. **Headings.** Headings in this Easement are for convenience only and will not be used to interpret or construe its provisions.

(Signatures appear on the following pages.)



AUDITOR'S OFFICE, TRAIL COUNTY
HILLSBORO, NORTH DAKOTA

Transfer entered 3/23 2023
Glenda Hansen Auditor
By [Signature] Deputy



OFFICE OF COUNTY RECORDER Fees: \$30.00
State of North Dakota)
County of Trail))

I hereby certify that the within instrument was filed in this
office for record on 3/23/2023 at 9:14 AM, and was
duly recorded as Document Number **199458**

[Signature] Recorder

Deputy

OHNSTAD TWICHELL LAW FIRM 444 SHEYENNE ST, S
PO BOX 458 WEST FARGO, ND 58078-0458

199458 Pg: 2 of 2

State of North Dakota)
County of Trail))
Recorded: 3/23/2023 At 9:14 AM