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# **SOLANO IRRIGATION DISTRICT**

## **ENCROACHMENT PERMIT – STANDARD CONDITIONS**

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The use of a Solano Irrigation District (District) right of way, for nearly any non-District purpose, requires written authorization and approval from the District, regardless of whether the encroached area affects District Fee Title, Grant Deed or Grant of Easement. This requirement is to ensure the District's facilities are adequately protected during and after any construction or installation of all non-District improvements or by any work which may affect a District facility or its ability to serve its customers. The Encroachment Permit (Permit) is also to ensure the full extent and entitlement of the District's property rights and its continued ability to operate, maintain, replace and reconstruct its facilities are not infringed upon or encumbered without the District's consent and concurrence.

### **General Information:**

1. This Permit allows the Permittee the use of the District's property or right of way, as set forth herein. Nothing in this document shall create, reserve or confirm to the Permittee any interest in the District's property. This is not a lease or an easement, and the Permittee does not acquire hereby any other interest in or right to property.
2. This Permit is issued with the understanding that it does not establish a precedent for future applications; each Encroachment Permit Application (Application) shall be reviewed and approved by the District on a case-by-case basis.
3. This Permit must be strictly construed and no work, other than that specifically described or shown in the Application, is authorized. Any reconstruction of, additions or extensions to the permitted works shall require an additional Permit from the District.
4. All Conditions of the Permit are of equal importance and shall be followed to by the Permittee; their order in this document does not represent their relative significance.
5. For the construction or installation of Public Utility or similar type of facilities, the Permittee shall join, and maintain membership in, USA (Underground Service Alert).
6. For the purpose of this Permit, the term "Agency" shall be defined as any local, city, county, state or federal governing body which may have regulatory or legal jurisdiction presiding over the encroached area or permitted works. In all such instances, it is the responsibility of the Permittee to acquire the additional Agency approval(s) and provide the District with a copy. Failure to comply shall result in the immediate termination of this Permit.
7. The District reserves the ability to: add to, modify, amend or rectify any specific condition of the Permit in order to address a specific issue or circumstance which may be discovered or encountered during the performance of the permitted works. These changes are to ensure the safety and integrity of the District's facilities and rights-of-way, and the safety of the public, as determined by the District or Agency. Any modification shall be made in writing by the District or Agency and must be abided by the Permittee.
8. This Permit shall be construed as a whole and, in accordance with its fair meaning and intent, the descriptions provided being for the convenience of the Permittee and reviewing parties only, and are not intended to fully describe or define the provisions in the portions of the Permit to which they pertain.
9. No right or interest included in the Permit shall pass by assignment by the Permittee without written permission from the District.
10. Utilities or facilities to be dedicated and/or accepted for operation and maintenance by a public utility or municipality shall require a Permit from said public utility or municipality. No party other than Permittee or Permittee's authorized agent is allowed to work under this Permit.
11. This Permit is made solely for the benefit of the Permittee; it is not for the benefit of any person, firm, association, corporation or public entity not a party hereto, and no person, firm, association, corporation or public entity other than Permittee shall have any right to enforce this Permit under California Civil Code Section 1559 or otherwise.
12. This Permit, and the authorized use memorialized herein, is personal to Permittee. It is not transferable, voluntarily

or by operation of law. If ownership of Permittee's appurtenant property is transferred, voluntarily or by operation of law, any future owner, if it wishes to continue the authorized use, must independently apply for and receive a new Permit from the District.

13. This Permit grants no rights or warranty to the Permittee or the Permittee's facilities as to the continued availability or suitability of the encroached land or District's rights therein for the facilities installed under this Permit. Furthermore, the District is under no obligation to maintain its facilities in their present condition, location or configuration.
14. Any investment or commitment by Permittee in reliance on this Permit shall be, and is, entirely at Permittee's own risk.
15. Depending on the nature of the proposed works or area of encroachment, the District may require the construction documents, drawings, legal plats, etc. be stamped, signed and dated by a California registered professional engineer or land surveyor.
16. All sections of the District's Standard Specifications and Details (Standards) which pertain to or are relevant to the permitted work shall be considered part of these Standard Conditions and shall be adhered to by the Permittee.
17. The Permittee or the permitted work shall not interfere or in any way hinder the District's facilities or their operation.

#### Fees and Costs:

1. Permittee shall pay for all District costs associated with this Permit. This includes, but is not limited to: plan reviews, meetings, testing, issuing permits, inspecting Permittee's work, ensuring compliance of the terms and conditions of this Permit and Standards. This may also include, at the District's sole discretion, a District employee or Inspector on-site at all times during any construction activities pertaining to this Permit.
2. Only fees specifically outlined or stated in a previously approved District Agreement may be waived.
3. All District charges will be billed to a District Work Order for this project which must be signed and paid for by the Permittee prior to issuing an approved Permit.
4. The fees shown below for a Minor or Major Encroachment are a **deposit only** and **do not represent the final cost** to the Permittee. After the initial deposit is exhausted, all additional costs will either require an additional deposit or be billed to the Permittee on a monthly basis.
5. Fee Schedule:
  - a. Application Fee:           **\$125**           (Non-refundable; due with a submitted Application)
  - b. Minor Encroachment:   **\$700**           (Deposit for estimated costs for: review, approval and limited inspection time; any remainder funds will be reimbursed to Permittee upon project completion.)
  - c. Major Encroachment:   **\$1,200**       (Deposit for estimated costs for: review, approval, inspection, management decisions; any remainder funds will be reimbursed to Permittee upon project completion.)

#### Other Agency Requirements and Permits:

1. All costs or mitigation measures regarding other Agency requirements and permits shall be paid by the Permittee.
2. Archaeological: If any archaeological resources or artifacts be discovered during the permitted work, the Permittee shall cease all work and notify the District immediately. The Permittee shall retain a qualified archaeologist who shall evaluate the findings and make recommendations to the Permittee and the District regarding the continuance and/or mitigation of the permitted work.
3. Permits From Other Agencies: This Permit shall not replace or alleviate the need for any permits or approvals required by Law or Ordinance, whether from the City, Solano County, Public Utilities Commission of the District of California (PUC), California Department of Fish and Game, California Occupational Safety and Health Administration (CAL-OSHA), or any other public agency having jurisdiction.
4. Public Utilities Commission Orders: All clearances and types of construction shall be in accordance with the applicable orders of the Public Utilities Commission of the State of California, unless more restrictive provisions are required by City or County Ordinance or by the District Standards.
5. Permittee shall secure written authorization for any work which must be approved or permitted by any agency having jurisdiction.

6. A copy of all authorizations or approvals shall be provided to the District prior to commencement of any permitted work.
7. Regardless of the circumstances or responsibilities, the District shall be indemnified and held harmless from any and all, claims, litigation or legal action which may result from the Permittee's lack of due diligence.

#### **Insurance and Bonding:**

1. All work completed per the Permit, by non-District personnel, requires an additional worker's compensation and liability insurance policy. The requirements are outlined in the Standards under Section 00700.5.02 and Section 00700.5.03. The Permittee must furnish to District a Certificate of Insurance (Section 00700.5.05), before the Permit is approved and returned to the Permittee.
2. The following are required for the insurance coverage:
  - a. Liability insurance presently in effect for Permittee with bodily injury and property damage limits of not less than \$1,000,000 per occurrence.
  - b. The District, its officers, agents, employees and servants are included as additional insureds, but only insofar as the operations under this Permit are concerned.
  - c. The insurer shall not cancel the insured's coverage without 30 days' prior written notice to District.
  - d. The District shall not be responsible for any premiums or assessments on the policy.
  - e. All work under this Permit shall be covered by the policy.
  - f. Insurance provided must be in effect and maintained throughout the life of the Permit, but shall not be less than one (1) year.
  - g. Proof of insurance shall be provided annually to the District; failure to comply shall terminate the Permit.
3. Due to the nature, extent, location or circumstances of the work, the District may also require the Permittee to obtain a surety bond(s). The requirements of said bonding are outlined in the Standards Section 00700.5.01.
4. The Permittee shall ensure against the imposition of any mechanic's liens against the property of the encroachment.

#### **Liability and Damages:**

1. In addition to their work, the Permittee shall also be responsible and liable for all work by their contractor(s) and/or subcontractor(s).
2. The Permittee shall accept all liability and shall indemnify for all claims arising out of or relating to the encroachment.
3. The Permittee shall be liable for damages caused by the District's ordinary negligence; however the Permittee's liability will be relieved from instances specific to the District's willful misconduct or gross negligence.
4. The Permittee shall abide by all relevant requirements of the Standards Section 00700, specifically Section *00700.5.07 – INDEMNIFICATION*.

#### **Construction Activities:**

1. All authorized work per this Permit shall be performed by duly licensed persons, unless this requirement is expressly waived by the District.
2. Before starting any construction activities for the Permitted work, the Permittee shall provide a 48 hour notice by contacting the District's Engineering Department. **THE PERMITTEE MUST RECEIVE AN ACCEPTANCE REPLY FROM THE ENGINEERING DEPARTMENT PRIOR TO BEGINNING THE WORK.** Additional notice may be required and will be outlined in the Supplemental Conditions.
3. The Permittee, as required by CA Government Code 4216.2.A.1, shall notify Underground Services Alert, by phoning 811 or through their website ([www.usan.org](http://www.usan.org)) at least two days prior to any earthwork activities. The Permittee shall also adhere to all other requirements of CA Government Code 4216 – 4216.9.
4. During any period when any work is being pursued per this encroachment, a copy of the signed Permit shall be kept at the site of the work and must be shown to any requesting District representative, presiding Agency or law enforcement officer. Failure to comply is a violation of the Conditions and all work may be suspended until the signed Permit is made available.
5. If there are any aboveground facilities (including pedestals, valves, utility boxes etc.) included as part of the Permit, the Permittee shall identify them with appropriate signage and/or paddle markers. The installed facilities shall only

be placed in locations approved by the District; not located within any open canals, drainage ditches, swales or other distribution facilities.

6. The District rights-of-way and facilities shall be returned to their original pre-encroachment condition, except for modifications expressly authorized by the Permit.
7. Permittee shall take all actions necessary to protect the public from all hazards caused by Permittee's activities. All work areas, open holes and trenches must be appropriately delineated from pedestrian, vehicle and livestock traffic during both working and non-working hours; open excavations must be properly covered and protected during non-working hours.
8. Both temporary and permanent alterations to the District's fencing are permitted only as specifically described in this Permit or as directed by District's Representative. All gates and fencing installed by the Permittee as a means of access to Permittee's facilities shall be constructed to the District Standards. Such gates and fencing shall be kept in good repair by the Permittee. Gates shall be kept closed and locked except when in actual use. District will at all times be allowed full use of said gates and shall be allowed to place its lock(s) on all gates.
9. Permittee shall be liable and accountable for any losses or damage to the facilities of the District, other Agencies or utilities as a result of the permitted work, including any resulting damages outside of the immediate work area. At the discretion of the owner, the damaged facilities may be repaired by the owner; all expenses for the repair including any administrative charges of said damage shall be paid by the Permittee.
10. Permittee shall yield start of work to ongoing prior authorized or permitted work. When existing encroachments or installations may conflict with this permitted work, Permittee shall be responsible for identifying and protecting those encroachments or installations.
11. Permittee shall avoid damage or injury to the right of way, facilities, or personnel of District and the public and to preclude interference with operations of District facilities.
12. No material capable of water pollution shall be stored or discharged by Permittee within or near any runoff or drainage area, canal, ditch, channel or any other waterway or waters - absolutely no exceptions. Permittee shall use extreme caution to prevent the contamination or pollution to the waters of the District and surrounding area.
13. Construction materials or equipment will not be stored, nor equipment parked, within the District's right of ways unless the Permittee is actively engaged in the construction or maintenance activities proposed in the Permit and authorized by the District.
14. The Permittee shall maintain or repair the encroachment area for damages resulting from settlement, erosion or similar failures for the duration of the Permit.
15. Upon notification by the District, all corrective measures must be completed within thirty (30) days with the exception of emergency situations which could affect the safety and welfare of the public or property or integrity of District facilities. In those situations, immediate action by the Permittee is required and if the Permittee fails to comply, the District will utilize all means necessary to correct the situation and bill the Permittee for all costs associated with the District's intervention.

#### **Inspection and Testing:**

1. All the work shall be done subject to the supervision of and satisfaction of the District, however, neither the supervision nor lack of supervision of the work by District will relieve Permittee of any obligations or responsibility under this Permit or as provided by law.
2. At the District's discretion, the District may: inspect, observe or supervise any or all work performed under this Permit.
3. The District does not by approving plans or inspecting or approving work expressly or impliedly warrant the work to be free of defects, fit for Permittee's purposes, or authorized by law, nor does the District assume any responsibility for such work or Permittee's activities within the encroachment area.
4. Any required testing shall be completed by an outside source or agency; the results shall be submitted to the District for acceptance and approval.

#### **Safety:**

1. Permittee shall abide by all City and County requirements regarding public safety.
2. Permittee shall furnish, erect and maintain such fences, barriers, lights and signs and provide such flagmen and guards as are necessary to give adequate warning to the public of the construction of the encroachment and of any

dangerous condition to be encountered as a result thereof.

3. **Hazardous Substances:** Permittee agrees that it will comply with all laws, including Federal, State, or local, existing during the term of this Permit pertaining to the use, storage, transportation and disposal of any hazardous substance as that term is defined in such applicable laws. In the event the District or its officials, employees, agents or successors should incur any liability, cost or expense, including attorneys' fees and costs, as a result of Permittee's use, storage, transportation or disposal of any hazardous substance, including any petroleum derivative, Permittee shall indemnify, defend and hold harmless any of these entities or individuals against such liability. Where Permittee is found to be in breach of this provision due, for example, to the issuance of a government order directing Permittee to cease and desist any illegal action in connection with a hazardous substance, or to remediate a contaminated condition caused by Permittee or any person acting under Permittee's direction, control and authority, Permittee shall be responsible for all costs and expenses of complying with such order including any and all expenses imposed on or incurred by District in connection with or in response to such government order.

**DISTRICT - Maintenance, Repair, Replacement, Reconstruction or Operation:**

1. The District may, without charge or reservation, use any improvements installed by Permittee within the encroachment area, as it deems necessary to conduct its operations.
2. The District shall not be liable for any damage that may be incurred by the Permittee's facilities as a result of the operation, maintenance or construction work performed on any District facility by or on behalf of the District. In such an event, the Permittee is responsible for making any necessary repairs as soon as possible.
3. If at any time, the District requires that any portion of the Permittee's facilities must be altered, relocated or removed to accommodate said work, the Permittee shall perform their work within 30 days of the District's written request. All costs associated with the Permittee's facilities shall be at the sole expense of the Permittee, except as otherwise provided by law, Addendums to this Permit or other District Agreement.
4. Should the Permittee fail to accommodate the District's written request, as stated above, the District or an outside contractor will perform such work, Permittee agrees to reimburse District for all costs of the work so performed including attorney's fees.

**PERMITTEE - Maintenance, Repair, Replacement or Reconstruction:**

1. Permittee shall notify the District before entering District's right of way to do any repair, maintenance, removal, reconstruction or any other work.
2. An agreement and schedule may be set up with the District for entry to perform routine inspection or minor maintenance work on the Permittee's facilities.
3. Permittee may enter without notice for emergency situations or repair purposes, but shall notify the District as soon as reasonably possible.
4. Regardless of the situation or circumstance, the Permittee shall notify the District before starting any excavation or earth moving activity.
5. Permittee shall operate and properly maintain their facilities on District's right of way, make certain their encroachment is not damaging District's right of way or facilities or interfering with the District's operations, and immediately repair and make good any damage to any of District's facilities which occur as a result of the work done under this Permit.
6. In every case, the Permittee shall be responsible for restoring to its pre-construction condition any portion of the right of way which has been excavated or otherwise disturbed.
7. Future construction or reconstruction plans within the permitted area shall be submitted to the District for review and approval. Such approval may be withheld or postponed due to the District's irrigation season, affected District facility or for other reasons determined by the District.
8. The Permittee shall properly maintain its improvements in a safe condition and authorizes the District to remove or address dangerous conditions at the Permittee's expense.
9. **NO WORK MAY ENTER OR CROSS A DISTRICT RIGHT OF WAY WHICH MAY, IN ANY WAY, AFFECT A DISTRICT FACILITY DURING THE IRRIGATION SEASON.** The exact irrigation season changes annually and is weather dependent; the typical season is from March 1<sup>st</sup> through October 15<sup>th</sup>.

### Termination or Revocation of Permit:

1. At any time, this Permit may be revoked or terminated by the District, with or without cause.
2. Although not under any obligation, the District will do its best to provide the Permittee with a thirty (30) days' written notice of the termination.

### Project Completion and Close-Out:

1. Upon completion of all work within District's right of way, including any future construction or reconstruction, Permittee shall furnish As-Built drawings to the District showing the location and details of construction. The drawings must include the permitted works, District facilities and District rights-of-way. Failure to submit As-Built plans within sixty (60) days of completion may result in written notice of revocation.
2. All trash, including food waste, must be removed from the work site or suitably contained at the end of each work day/night.
3. Upon completion of construction, installation, maintenance, repair or removal of the permitted work, all waste material and debris shall be removed from the work site and the site left in its pre-construction condition.

### SPECIAL CIRCUMSTANCES:

The following provisions are grouped together for ease of use and are typical for the types of encroachments below. In no way shall they relieve or excuse the Permittee from any of the other requirement(s) for this Permit contained within the Standard Conditions and Supplemental Conditions.

#### Landscaping Areas or Linear Parks:

1. Items 2 – 11, below, do not apply to open canal or drainage ditch rights-of-way.
2. The full width of the right of way may be used as green belt or cropping, unless otherwise prohibited.
3. Ground cover and shall not hinder the visual detection of any pipeline leaks.
4. Trees and vines shall not be permitted, unless expressly authorized by the District.
5. Irrigation lines running parallel to a District pipeline shall not be installed within the District's right of way. Perpendicular lines shall comply with the Crossing Standards.
6. Irrigation system valves shall not be installed within the District's right of way.
7. Existing District pipeline depth of cover shall not be altered.
8. Excavated materials shall not be permanently placed within the District's right of way.
9. Landscaping shall not obstruct or impede District access to its facilities and operations.
10. Concrete sidewalks and pathways shall be designed and constructed to meet District vehicular traffic loading, including heavy construction equipment.
11. Replacement/repair of any landscaping, greenery, irrigation systems or other improvements which are damaged or removed during District work, shall be the responsibility and at the cost of the Permittee.

#### Longitudinal (installations running parallel or along rights-of-way):

1. Open canals or drainage ditches:
  - a. Minor above ground permitted facilities may be allowed on the "operations side" of the canal or ditch, but must be outside of the traveled way.
  - b. Continuous or major above ground permitted facilities must be constructed on the "non-operation side" of the canal or ditch.
  - c. Under no circumstances shall any permitted facilities be installed or constructed within ten (10) feet from the top edge of the canal or ditch.
  - d. The exact alignment shall be field marked with staking and verified by the District prior to construction or installation.
2. Buried pipelines:
  - a. District pipelines shall not be included within subdivision (house) lots.
  - b. Pipelines containing sewer, oil, gas, natural gas or any other hazardous material shall not run parallel to District pipelines and shall be installed per the Crossing Standards.
  - c. Embankments shall not be permitted.

### **Road and Parking Areas:**

1. The Grading Plan or Improvement Plans must show and call out the top elevation of the District's pipeline relative to the proposed final paved surface.
2. At no time shall the proposed final grade be less than three (3) of cover, measured at the pipe bell.
3. Placement of on-site excavated materials within the right of way is prohibited without the express written permission from the District.
4. Use of barrow material within the right of way is prohibited without the express written permission from the District. Such use shall also require the direction and approval of a Geotechnical Engineer.
5. If existing drainage features are proposed to be modified or altered in any way during construction by the Permittee, detailed design drawings showing the proposed interim drainage plan, replacement facilities and/or restoration of the existing facilities shall be submitted to the District.
6. Travel lanes and parking areas shall not be constructed over District pipelines. Shoulders or median areas may be constructed over District pipelines, if authorized in writing by the District.
7. All streets, roadways and parking surfaces must be structurally designed to the site's soil report meeting the requirements and signed approval of a Geotechnical Engineer. The structural design and paving must also meet the requirements and approval of the District.
8. Depressed curbs or driveways shall be provided for the District's vehicular and heavy equipment access when new roads or medians cross the District's open canal, drainage ditch or pipeline.
9. Trails, paths and maintenance roads shall be fenced, except when the District's right of way is used as a greenbelt. Within the District's right of way the fence shall meet the Standards or separately approved and shall not obstruct access of District personnel or equipment for any District use of the right of way.
10. All vehicle and equipment access gates shall meet the presiding Fire Department requirements and shall be at least sixteen (16) feet wide, placed at the minimum setback and meet the requirements of the Standards.
11. Gates to be locked by the Permittee, the District shall have complete access at all times for the duration of the Permit.
12. All gates shall be fabricated to allow the placement and use of the District's own lock on the locking mechanism in addition to the Permittee's.

### **Work within Road or Traveled Way:**

1. All work shall meet all City, County, State and Federal requirements, ordinance and laws pertaining to work within or alongside a road or traveled way. Any conflicts in regard to these Conditions shall be brought to the District's attention for decision before proceeding.
2. Permittee shall be responsible for replacing or repairing the pavement and disturbed area for the duration of this Permit.
3. An approved Traffic Control Plan and all appropriate traffic control signage/devices, including flaggers, shall be in place at all times during the work in accordance to latest MUTCD standards and to the satisfaction of the presiding Agency.
4. Permittee shall keep the road open to local traffic and emergency vehicles at all times.
5. The local residents and businesses must be notified no less than 72 hours prior to the road work by informational fliers/letters regarding the road work, access, expected time of work completion and contact information of the Permittee.
6. All work must be planned and carried out so there will be the least possible inconvenience to the traveling public.
7. The conditions of this Permit shall not be modified, unless approved in writing by the District.

### **Subdivisions or Development Areas:**

1. Permanent structures are not permitted within the District's right of way.
2. The Permittee shall not divert surface run off toward the District's open canals, drainage ditches or embankments. Surface run off may not be stored or collected within the District's right of way.
3. Use of the District's right of way as part of a residential subdivision lot is not allowed except that unimproved

portion of individual subdivision lots reserved for future landscape or greenbelt area may be allowed within the District's right of way and shall require the written consent of the District.

4. If the proposed improvements, such as streets, sidewalks and utility corridors are to be dedicated to the City or local agency, the Permittee shall be responsible for acquiring all other agreements or permits with the municipalities and utility company(s); a copy of each executed agreement or permit must be provided to the District.
5. The District may require the approving local governmental entity (i.e., city, county, water authority, etc.) be designated as an additional Permittee.
6. All landscaping shall adhere to the Special Circumstances landscaping subsection above.

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End of Document

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