

BLACK CANYON IRRIGATION DISTRICT RESOLUTION NO. 2023-04: FACILITY EASEMENT/RIGHT-OF-WAY REQUIREMENTS FOR RESIDENTIAL SUBDIVISIONS

WHEREAS, the District, pursuant to Idaho Code Section 43-304, enjoys broad authority to do any and every lawful act necessary to be done to facilitate, perpetuate, and ensure that sufficient water is delivered to lands and landowners in the district for irrigation purposes;

WHEREAS, the District is experiencing increased urbanization and residential development encroaching upon District water delivery and drainage facility easements and rights-of-way, which development oftentimes threatens the integrity and function of the District's irrigation and drainage facilities, including making the same more difficult to operate, maintain, repair and replace;

WHEREAS, Idaho Code Sections 42-1102 and 42-1209 codify that irrigation and drainage easements/rights-of-way are "essential" to the proper operation and maintenance of such facilities;

WHEREAS, the District is authorized to review and reasonably condition encroaching land uses through the written permission requirements of Idaho Code Sections 42-1102, 42-1207, and 42-1209, among others, because of the legal duties the District owes under Idaho Code Section 42-1201, 42-1202, 42-1203, and 42-1204; and

WHEREAS, the District wishes to further centralize, formalize, and codify its facility easement/right-of-way policies developed over time as discussed in the official meeting minutes of its Board of Directors;

NOW, THEREFORE, BE IT RESOLVED, that the District further confirms and ratifies the following facility easement/right-of-way protection policies and requirements for use throughout its boundaries:

All new residential subdivisions shall, as part of the District's facility encroachment review process, grant an express, surveyed, and District-approved irrigation easement to the District for recording purposes. Plat-based dedication and depiction alone are insufficient. All costs incurred in the creation and depiction of the District-approved express easement shall be borne solely by the subdividing landowner.