

12506

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APR 11 1976

THIS AGREEMENT, made this 13 day of ^{April} ~~March~~, 1976, between MEADOWS DISTRICT IMPROVEMENT COMPANY, an Oregon Corporation, herein called Meadows, and DONALD L. SLOAN and HAZEL I. SLOAN, husband and wife, RONALD E. PHAIR and LORRAYNE PHAIR, husband and wife, JERRY T. FRIESE and SHEILA B. FRIESE, husband and wife, RANDALL Z. RAMEY and GALE RAMEY, husband and wife, and BRISTOL COURT DEVELOPMENT COMPANY, a co-partnership consisting of Ronald E. Phair and Lorrayne Phair, and Donald L. Sloan and Hazel I. Sloan, herein called Landowners; and KLAMATH IRRIGATION DISTRICT, an Oregon Irrigation District, herein called KID, and their respective successors, assigns, heirs, devisees and grantees,

W I T N E S S E T H:

ARTICLE ONE

1.1

Landowners are at the present time the respective owners of the following-described parcels of real property in Klamath County, Oregon, to-wit:

FRIESE:

Lot 2 in Block 14 of Tract 1026, The Meadows, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

PHAIR:

Lot 3 in Block 14 of Tract 1026, The Meadows, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

RAMEY:

Lot 4 in Block 14 of Tract 1026, The Meadows, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

BRISTOL COURT DEVELOPMENT COMPANY:

A parcel of land situate in the SW $\frac{1}{4}$ of Section 11, Township 39 South, Range 9, E.W.M., and more particularly described as follows: Beginning at a point on the South line of Bristol Avenue which is North 89°32'55" East a distance of 1516.15 feet and South 0°27'05" East a distance of 30.0 feet from the Northwest corner of the SW $\frac{1}{4}$ of said Section 11, said point also being the Northwest corner of Tract No. 1026 - The Meadows; thence continuing South 00°27'05" East along the West line of The Meadows a distance of 144.0 feet to a point; thence South 89°32'55" West, parallel with the South line of Bristol Avenue, a distance of 110.0 feet to a point; thence North 00°27'05" West, parallel with the West line of The Meadows, a distance of 144.0 feet to a point on the South line of Bristol Avenue; thence North 89°32'55" East along said South line a distance of 110.0 feet to the point of beginning.

BRISTOL COURT DEVELOPMENT COMPANY:

A tract of land situated in the SW $\frac{1}{4}$ of Section 11, Township 39 South, Range 9, E.W.M., Klamath County, Oregon, more particularly described as follows: Beginning at a point on the South right of way line of Bristol Avenue, said point being North 89°32'55" East (North 89°38' East by record) 996.15 feet and South 00°27'55" East (South 00°22' East by record)

GANONG & SISEMORE
Attorneys at Law
540 Main Street
KLAMATH FALLS, ORE.
97601

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30.00 feet from the Northwest corner of the $S\frac{1}{2}SW\frac{1}{4}$ of said Section 11 (the last described corner is the intersection of the centerline of Bristol Avenue and Summers Lane); thence North $89^{\circ}32'55''$ East along the South line of Bristol Avenue 520 feet, more or less, to the Westerly line of the plat of Tract No. 1026, The Meadows, according to the official plat thereof on file in the records of Klamath County, Oregon; thence Southerly along said Westerly line to its intersection with the Northwest-erly line of the USBR 1-C-3 Drain right of way; thence Southwesterly along said Northeasterly line to its intersection with the Northeasterly line of the USBR F-7 (A-C-3) lateral right of way; thence Northwesterly along said Northeasterly right of way to the Westerly line of that property described in Deed Vol. 284, page 485, Klamath County Deed Records; thence following said Westerly line: North $00^{\circ}27'05''$ West 60.0 feet; thence North $67^{\circ}54'55''$ East 202.89 feet; thence North $00^{\circ}27'05''$ West 107.00 feet to the point of beginning.

SAVING AND EXCEPTING from the above-described property that portion de-scribed in Parcel 4 (Bristol Court Development Company) above.

SLOAN:

A portion of the $SE\frac{1}{4}SW\frac{1}{4}$ of Section 11, Township 39 South, Range 9 East, W.M., lying South of the USBR 1-C-3-B Drain described as follows: Beginning at the point of intersection of the South line of the USBR 1-C-3-B Drain right of way and the East line of said $SE\frac{1}{4}SW\frac{1}{4}$; thence West along said South line to its intersection with the Northeast corner of Tract 1026, The Meadows, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon; thence along the Easterly and Southerly boundary of said plat to its intersection with the Northeasterly line of the USBR F-7(A-3-C) lateral, according to the official plat thereof on file in the records of Klamath County, Oregon; thence Southeasterly along said Northeasterly line to the East line of said $SE\frac{1}{4}SW\frac{1}{4}$; thence North along said East line to the point of beginning,

which said real property the Landowners have acquired for subdivision purposes or similar urban residential type uses.

1.2

The Landowners contemplate discharging into the drains of the United States Bureau of Reclamation, Klamath Project, all storm water run-off and all other waters to be drained from said premises except for sewage which will be dis-charged into the sewers of the South Suburban Sanitary District.

1.3

KID, pursuant to various agreements between KID and the United States of America, is responsible for the operation and maintenance of the drains, ditches, laterals and canals of the Klamath Project through which the run-off from the above-described lands will pass after it leaves said lands. The cost of the operation and maintenance of KID is paid by the water users within the District. During the irrigation season the discharge from the drains co-mingle with the waters used for irrigation of agricultural lands within the Project, and KID is

1 concerned that the quality of the water received from the above-described lands
 2 may not meet present and future Federal and State water quality requirements and
 3 that KID will be held responsible and liable for the condition of said waters.
 4 KID is also concerned about the discharge of non-agricultural water into the
 5 United States Klamath Project Drains, because said system was designed and engi-
 6 neered by the Bureau of Reclamation to handle agricultural irrigation run-off only,
 7 and said additional burden may overload the Project System and result in subbing
 8 and flooding. KID is also concerned that the occupants of said real property may
 9 allow trash, dirt and garbage to enter said drainage system or that mulch, dirt,
 10 gravel and similar materials may wash from said real property into the Project
 11 System.

1.4

13 For said reasons, KID is unwilling to consent to the discharge of the storm
 14 sewers and other non-agricultural waters, including those which may seep or per-
 15 colate through the ground, into the Project drains unless Meadows and the Land-
 16 owners will assume all responsibility for the quantity and quality of all such
 17 water and will assess and levy against the above-described lands and pay to KID
 18 each year a reasonable sum, to be determined as hereafter provided, to reimburse
 19 KID for the increased burden imposed upon it by the discharge of such waters and
 20 all expenses incurred by it or by the United States Bureau of Reclamation in
 21 monitoring, collecting, storing, settling or treating such water or in servicing,
 22 cleaning, maintaining, repairing or replacing ditches, drains or culverts of
 23 the Project System, and also their proportionate share of KID's operation and
 24 maintenance costs, which include its office, clerical, equipment and maintenance
 25 costs, payroll taxes, insurance, depreciation and other indirect expenses of the
 26 operation of the District, as well as the costs which are directly attributable
 27 to or traceable to the performance of this Agreement.

ARTICLE TWO

2.1

30 The initial term of this Agreement shall be for a period of three years, from
 31 July 1, 1976. Thereafter, this Agreement shall continue from year to year until
 32 the 30th day of June of the year following the year in which either Meadows or

1 KID shall give the other written notice of its intent to terminate this Agreement
2 by said June 30th date. Provided however, that it is understood and agreed that
3 this Agreement is not intended as a permanent or as a final solution of the non-
4 agricultural water drainage problems of the above-described lands but only as a
5 temporary solution until such time that Meadows or the Landowners within Meadows
6 can make other arrangements for the disposal of such waters. In particular,
7 Meadows and the Landowners agree that it and they will cooperate in and promote
8 the establishment of a suburban-wide or municipal or other storm drainage dist-
9 rict or system and that at such time as an alternative system, including annexa-
10 tion by a city or other governmental agency or entity, shall become available
11 Meadows and the Landowners will contract or make arrangements with such new
12 entity for the discharge of such waters, and KID may withdraw its consent to the
13 discharge of same into the Klamath Project System.

2.2

15 Meadows and the Landowners agree to assume all responsibility for the quan-
16 tity and quality of any and all waters discharged into the Klamath Project System
17 from the above-described lands, including waters which may sub or percolate from
18 said land into said Project System, and covenant and warrant that all such waters
19 will at all times meet all applicable State, Federal and other government stand-
20 ards. Meadows and the Landowners also covenant and agree to hold KID and the
21 United States, and their successors and assigns, harmless from all such waters
22 and to indemnify them from all claims for injury, damages, expenses or liability
23 arising or resulting from such discharge of such waters, including claims arising
24 or resulting from flooding, overflow or subbing whether resulting from an Act of
25 God or normal or reasonably foreseeable causes.

2.3

27 KID or the United States Bureau of Reclamation may from time to time, or on a
28 permanent basis, monitor, test or measure any and all waters entering the Project
29 System from said real property, whether said water is discharged into the system
30 through storm sewers or other non-natural means or whether said water percolates
31 or drains into the system through natural means, and they shall each be the sole
32 judge of the desirability or necessity of such monitoring, testing or measuring

1 conducted by them, and all of the costs thereof shall be borne by Meadows and
 2 the Landowners within said area. If any other State, Federal or other govern-
 3 mental agency shall do any such testing, monitoring or measuring and charge the
 4 same to KID or the Bureau of Reclamation, either directly or indirectly, Meadows
 5 and the Landowners shall bear their proportionate share of said cost. If KID or
 6 the Bureau of Reclamation decide in the exercise of its or their sole judgment
 7 that it is either necessary or desirable to construct or maintain, gathering,
 8 collecting, storing, holding, settling or treatment ponds, plants, facilities,
 9 systems or areas, Meadows and the Landowners shall pay all of the cost of the
 10 construction, installation, operation, maintenance, replacement and repair of
 11 same, or if used to serve an area larger than that hereinbefore described, their
 12 proportionate share, based on total acreage or area served by such facility or
 13 facilities. Meadows and its Landowners also agree to pay their proportionate
 14 share of the cost of enlarging or improving any existing facilities in the Project
 15 System and the cost of construction of any new facilities which either KID or the
 16 United States may deem necessary or advisable to handle or service, in whole or
 17 in part, drainage from any of the above-described lands.

2.4

18
 19 It is expressly agreed that KID may, if it deems such action necessary or
 20 desirable, enter into and upon any of the above-described lands for any of the
 21 purposes mentioned in this Agreement, and also for the purpose of operating,
 22 managing, maintaining, repairing, replacing, improving, enlarging, installing,
 23 constructing or improving any part or portion of such drainage system, including,
 24 without any limitation from the following, sewers, curbs, gutters, catch basins,
 25 pumps, culverts, pipes, ditches or drains, gathering, collecting, holding, settling
 26 or treatment ponds, plants or facilities, and monitoring, testing or treatment
 27 stations, plants or facilities, and Meadows and the Landowners do hereby give and
 28 grant unto KID and its successors and assigns the perpetual rights of way and
 29 easements over, across, through, under and upon all of the above-described lands
 30 for such purposes. Provided however, that it is expressly understood and agreed
 31 that KID shall have no obligation, duty, responsibility or liability to do or per-
 32 form any of said acts or things in this Agreement mentioned, except to consent to

1 the discharge of non-sewage waters into the Project System on the terms and
2 conditions of this Agreement as hereinafter provided.

2.5

4 KID shall each year bill Meadows for the amount estimated by it to be neces-
5 sary to reimburse it for all services and expenses to be incurred by it in
6 connection with its performance of this Agreement for the ensuing fiscal year,
7 including all items hereinbefore described in Section 1.4 of this Agreement. KID
8 may also include in its bill or statement the balance, if any, by which the costs
9 or services for the preceding year exceeded the amount billed or paid KID for
10 such preceding year and also, any amounts remaining unpaid by Meadows for any
11 preceding year, including interest as hereafter provided. It is understood and
12 agreed, however, that it is not the intent of KID to make a profit from the per-
13 formance of this Agreement but only that it shall be fully and completely reim-
14 bursed for all of such costs and expenses attributable to this Agreement so that
15 none of the Landowners within KID nor the water users of KID nor the United States
16 will have to bear or pay any part of said cost or expense. It is understood and
17 agreed that the cost of maintaining and providing drainage for a subdivided or
18 urban or other heavily populated area is inevitably and necessarily greater than
19 maintaining or providing drainage for a rural or agricultural area. It is mutu-
20 ally agreed that for the initial year of this Agreement, KID shall bill Meadows
21 a sum equal to \$2.75 per platted or subdivided lot, whether occupied or not, and
22 for each lot or tract occupied by a residential unit, whether such unit is duly
23 platted or subdivided of record or not. This is a minimum amount which repre-
24 sents a fair share of KID's normal operation and maintenance costs for the whole
25 District for the year and does not include any extra or special services which
26 may be performed for Meadows, the Landowners or any persons residing on said
27 lands. The cost of any such extra or special services shall be included in
28 KID's statement for the next fiscal year.

2.6

30 Meadows and the Landowners agree that they will each year cause Meadows to
31 prescribe, fix, make, assess and levy charges and assessments in sufficient
32 amount for the purpose of paying KID's statement or bill and also to pay esti-
mated and actual delinquencies on assessments, including interest at the rate of

1 their above-described lands subject to payment and performance of this Agreement,
 2 but failure to include such provision in any conveyance shall not affect the
 3 rights of KID or relieve the purchaser, grantee or assignee from such liabilities
 4 and duties. The foregoing are not exclusive remedies but are in addition to any
 5 other rights or remedies available to KID.

2.7

7 Meadows agrees that it will make application to and secure from the United
 8 States Bureau of Reclamation the revocable licenses for the installation of faci-
 9 lities for the discharge of its storm sewers into the Project System.

ARTICLE THREE

3.1

12 KID agrees in consideration of said agreements by Meadows and the Landowners
 13 to consent to the discharge of said waters from the above-described lands into
 14 the Project System as herein provided.

15 This Agreement is limited to the above-described lands, and KID does not con-
 16 sent to the discharge of any other non-agricultural waters into the Project System.

3.2

18 This Agreement shall bind not only the parties hereto but their respective
 19 successors, heirs, devisees, grantees and assigns.

20 IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the
 21 day and year first herein set forth.

22 MEADOWS DISTRICT IMPROVEMENT COMPANY

23 By Donald L. Sloan
 its President

24 By Lorrayne Phair
 its Secretary

26 Donald L. Sloan
 Donald L. Sloan

28 Hazel I. Sloan
 Hazel I. Sloan

29 Ronald E. Phair
 Ronald E. Phair

31 Lorrayne Phair
 Lorrayne Phair

32

KLAMATH IRRIGATION DISTRICT

By John A. Marshall
 its President

By John A. Marshall
 its Secretary

BRISTOL COURT DEVELOPMENT COMPANY

By Ronald E. Phair
 Ronald E. Phair

By Lorrayne Phair
 Lorrayne Phair

By Donald L. Sloan
 Donald L. Sloan

By Hazel I. Sloan
 Hazel I. Sloan
 CO-PARTNERS

5345

1 Randall Z. Ramey
Randall Z. Ramey
2 Gale Ramey
3 Gale Ramey
4

Jerry T. Friese
Jerry T. Friese
Sheila B. Freise
Sheila B. Freise

5 STATE OF OREGON)
6 County of Klamath) SS

7 On this 9 day of April, 1976, personally appeared Randall Z. Ramey
8 and Gale Ramey, being duly sworn, each for himself
9 did say that the former is the President and that the latter is the Secretary
10 of Meadows District Improvement Company and that the seal affixed to the fore-
11 going instrument is the Corporate Seal of said Improvement Company and that said
12 instrument was signed and sealed in behalf of said Improvement Company by autho-
13 rity of its Board of Directors; and each of them acknowledged said instrument
14 to be its voluntary act and deed.

15 Before me:

16 (SEAL)

17 My Commission Expires: 9-23-78

18 STATE OF OREGON)
19 County of Klamath) SS

20 On this 13 day of April, 1976, personally appeared John A. Marshall and
21 Anna G. Booth, who, being duly sworn, each for himself and herself did say that
22 the former is the President and that the latter is the Secretary of Klamath Irriga-
23 tion District, and that the Seal affixed to the foregoing instrument is the
24 Corporate Seal of said Irrigation District and that said instrument was signed
25 and sealed in behalf of said Irrigation District by authority of its Board of
26 Directors; and each of them acknowledged said instrument to be its voluntary
27 act and deed.

28 Before me:

29 (SEAL)

30 My Commission Expires: 12-4-77

31 STATE OF OREGON)
32 County of Klamath) SS

33 On this 9 day of April, 1976, before me, the undersigned officer, per-
34 sonally appeared Ronald E. Phair, Lorraine Phair, Donald L. Sloan and Hazel I.
35 Sloan, who acknowledged themselves to be members of Bristol Court Development
36 Company, a co-partnership, and that they, as such partners, being authorized so
37 to do, executed the foregoing instrument for the purposes therein contained by
38 signing the name of the partnership by themselves as co-partners.

39 IN WITNESS WHEREOF, I hereunto set my hand and official seal.

40 (SEAL)

41 My Commission Expires: 9-23-78

GANONG & SISEMORE
Attorneys at Law
540 Main Street
KLAMATH FALLS, ORE.
97602

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1 STATE OF OREGON)
2) SS
3 County of Klamath)

4 On this 9 day of March, 1976, personally appeared the above-named
5 Donald L. Sloan and Hazel I. Sloan, husband and wife, and acknowledged the
6 foregoing instrument to be their voluntary act and deed.
7 Before me:

8 (SEAL)
9 My Commission Expires: 9-23-78

[Signature]
Notary Public for Oregon

10 STATE OF OREGON)
11) SS
12 County of Klamath)

13 On this 9 day of March, 1976, personally appeared the above-named
14 Ronald E. Phair and Lorraine Phair, husband and wife, and acknowledged the
15 foregoing instrument to be their voluntary act and deed.
16 Before me:

17 (SEAL)
18 My Commission Expires: 9-23-78

[Signature]
Notary Public for Oregon

19 STATE OF OREGON)
20) SS
21 County of Klamath)

22 On this 12th day of April, 1976, personally appeared the above-named
23 Randall Z. Ramey and Gale Ramey, husband and wife, and acknowledged the
24 foregoing instrument to be their voluntary act and deed.
25 Before me:

26 (SEAL)
27 My Commission Expires: 10-23-1979

[Signature]
Notary Public for Oregon

28 STATE OF OREGON)
29) SS
30 County of Klamath)

31 On this 12th day of April, 1976, personally appeared the above-named
32 Jerry T. Friese and Sheila B. Friese, husband and wife, and acknowledged the
33 foregoing instrument to be their voluntary act and deed.
34 Before me:

35 (SEAL)
36 My Commission Expires: 10-23-1979

[Signature]
Notary Public for Oregon

Return to: Klamath Irrigation District
6610 N.E. Lane
Klamath Falls, Ore.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 14th day of
APRIL A.D., 19 76 at 11:29 o'clock A.M., and duly recorded in Vol. M 76
of DEEDS on Page 5337.

FEE \$ 30.00

WM. D. MILNE, County Clerk
By [Signature] Deputy

28. MAIL
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30. TYPED
KERR
CHIEF
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